

ARTICLE II.
ADMINISTRATION

DIVISION 1.

GENERALLY

Sec. 13-101. General.

(a) *Purpose, intent and compliance.* The general purpose of this article is to provide for the administration of development requirements in an efficient and equitable manner. It is also the intent to set forth such administration in a clear and concise presentation that will allow the regulatory process to be easily understood.

(b) *Compliance and consistency.*

(1) *Compliance.* After the effective date of this chapter, except as provided in Article VI. Non-Conforming Situations, all existing and new land use and development of real property in the unincorporated areas of Sumter County shall comply with the requirements of this chapter, as follows:

a. Amendment. No new principal use (or substantial change in use) of property shall occur which does not comply with the text and Official Sumter County Zoning Map of this chapter. In some situations, such compliance may be obtained by an amendment to this chapter pursuant to Division 2.

b. Use permit. No new principal use (or substantial change in use) of property shall occur without a use permit issued pursuant to Division 3.

c. Development permit. No new subdivision of real property or substantial grading, excavation, paving, utility installation or other site work, or construction, erection, movement, improvement or alteration of any building or other structure, or operation of a conditional use or substantial change in use or occupancy shall occur without a development permit issued pursuant to Division 4.

(2) *Consistency.*

a. Consistent land use and development. Land use and development that is permissible within the text and zoning map of this chapter may be approved as shown on Table 13-104A and as provided for in Divisions 3 and 4.

b. Non-consistent land use and development. Land use and development that does not comply with the text and zoning map of this chapter is prohibited, unless and until the required amendments are made as shown on Table 13-104A and as provided for in Division 2, or a variance is granted as provided for in Division 9, or such land use and

development is provided for in Article VI (Nonconforming Situations).

(c) *Fees.* Fees sufficient to compensate for costs of administration, review, inspection, publication of notice, monitoring and similar matters may be charged to applicants for amendments, land use and development permits, variances and appeals, and similar actions and services. These fees shall be those reasonably necessary to insure the health, safety and welfare of the citizens of Sumter County. Such factors as proposed land use, nature and extent of development and potential impact to the community may be considered when establishing fees. A schedule of fees, including fee policies, shall be established by the Commission, by ordinance or resolution, and included as an appendices to this chapter. See Appendix B for fee schedule.

(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-102. Development activities.

For purposes of administration, activities related to the development of real property shall be identified as follows:

(a) *Subdivision of land.*

(b) *Site development/activity.* This includes clearing, grading, paving, utility construction and other related work activities that prepare a site for building construction or other use; or the use of property for a temporary activity.

(c) *Building construction.* This includes all habitable buildings and other above or below ground structures not related to site work.

(d) *Operation.* This includes operation of selected development after site development and building construction are complete.

(e) *Change of occupancy.* Where a change of use changes the occupancy classification of a structure or premises to what is not presently approved, but permissible. (Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-103. Development classifications.

To provide an appropriate level of review and approval, all proposed development shall be classified by the director as either exempt, minor, medium or major development according to the criteria below. An application for a development permit for all non-exempt development shall include sufficient information to allow the director to determine the appropriate classification. This classification shall then determine which permitting procedure presented in section 13-172 shall be required. Exempt development shall not require any review or permitting under this chapter. Classifications are defined as follows:

(a) *Exempt development.* A development activity shall be designated as exempt from

the review and permitting requirements of this chapter if it meets any of the criteria contained herein, provided such exemptions are not aggregated to circumvent the purpose and intent of this chapter. Development activity exempt from permitting shall comply with the applicable land use and development standards requirements of this chapter.

(1) *Subdivision of land.* The following methods of subdividing land are exempt, however, no parcel created under any of the exemptions in this subsection shall be eligible for development permits unless and until that parcel is assigned the proper zoning classification for the intended use. Subdivision of property, by any means, contrary to the intent and terms of these exemptions and this chapter, is prohibited.

a. Creation of individual parcels of land by sale or gift out of a lawful parcel of record, between or among the owner and his/her lineal descendent(s) or ascendant(s) for residential purposes, as specified in section 13-308(a)(1).

b. Transfer of property, acquired or contracted for prior to February 3, 1992, between tenants in common or joint tenants for the purpose of dissolving the tenancy in common or joint tenancy among those tenants, as specified in section 13-308(a)(2).

c. Sale or exchange of parcels of land between owners of adjoining properties provided that no additional lots are thereby created and that the parcels remaining are not reduced below the minimum sizes required by the comprehensive plan and this chapter.

d. Subdivision of property for purposes of financing provided there is no intent to sell or develop more than one (1) of the parcels created.

e. Subdivision of property for the purpose of transfer to a body having the power of eminent domain.

f. Subdivision of land into any number of parcels ten (10) acres or larger, provided, however, a division of a parcel into tracts of ten (10) acres or larger shall require a private easement of at least sixty (60) feet in width. The easement shall have a stabilized surface as provided in appendix E. Easements in exempt subdivisions shall not be eligible for inclusion in the county road system.

g. Subdivision of a lawful parcel into not more than two (2) parcels provided all parcels meet the size and other requirements of the comprehensive plan and this chapter.

(2) *Site development/activity.*

a. Where proposed improvements are completely interior to an existing structure and no change of occupancy occurs.

- b. Mechanized land clearing and/or creation of impervious surfaces exempt from surface water management permitting by the SWMD.
 - c. Excavation of material meeting the following criteria:
 - 1. Excavation does not violate any local, state or federal wetland regulations, and
 - 2. Excavation does not create any run-off or drainage onto property owned by others, and
 - 3. Not more than two thousand (2,000) cu. yds. (i.e. 75'×75'×10') per parcel is excavated.
 - d. Streets, roads, easements and related construction by or for government entities, when not part of development otherwise regulated by this chapter.
 - e. Above or below ground electric power, telephone, telegraph, TV cable, gas, water, and sewer lines, wires or pipes (together with supporting poles, and related structures not more than one hundred (100) sq. ft. in area and ten (10) feet high) installed by or for governmental bodies and public or private utilities, and located within a public road right-of-way for which permission for such installation has been obtained, when not part of development otherwise regulated by this chapter.
 - f. Repaving a lawfully existing impervious surface.
 - g. Non-commercial temporary activities; and commercial temporary activities that do not exceed the following limits (provided adequate provisions are made for sanitary, solid waste, traffic and other requirements):
 - 1. Does not occur on more than ten (10) acres of land, and
 - 2. Does not attract more than one hundred (100) persons for single performances or two hundred (200) persons per day for serial performances, and
 - 3. Does not occur for more than three (3) consecutive days, or for more than twelve (12) days in any single year.
 - h. Site development activity by or for the commission and other entities having the power of eminent domain.
 - i. Activities filling or recontouring land that do not require a surface water management permit from the Southwest Florida Water Management District.
- (3) *Building construction.*

a. Construction of buildings to be used for farming purposes on agricultural parcels, provided there is no electrical, plumbing or mechanical installation.

b. Additions to residential units, and residential accessory buildings:

1. In land use zones R2M, R2C, R4M, R4C, R6M and R6C when the addition or accessory building:

a Does not provide enclosed living area, and

b Does not contain electrical, plumbing or HVAC fixtures, and

c) Is not larger than one hundred (100) sq. ft. under roof.

2. In land use zones A10, A10C, RR5, RR5C, RR2.5, RR2.5C, RR1 and RR1C when the addition or accessory building:

a) Does not provide enclosed living area, and

b) Does not contain electrical, plumbing or HVAC fixtures, and

c) Is not larger than two hundred (200) sq. ft. under roof

c. Additions to principal buildings, and accessory structures in land use zones CN, CL, CH, CR, ID, REC, PIE and PUD when the addition or accessory building:

a) Does not provide enclosed occupancy space; and

b) Does not contain electrical, plumbing or HVAC fixtures; and

c) Is not larger than fifty (50) sq. ft. in area.

d. Minor structural repair or replacement work exempted from contractor licensing by section 6-18 of the Sumter County Code which does not exceed one thousand dollars (\$1,000.00) in value (materials and labor) in a calendar year and preserves egress requirements; and superficial or cosmetic construction which does not involve the integrity of the structure (bearing walls, etc.).

e. Minor electrical, plumbing or HVAC repair/maintenance work which does not add to or increase the system size or scope. Each type of work (except

replacement of motors and air conditioning compressors/evaporators) shall not exceed five hundred dollars (\$500.00) in value (materials and labor) in a calendar year.

f. Temporary construction offices and storage units on property for which a development permit for a principal structure has been issued and is currently in effect.

g. Signs:

1. Temporary signs. All temporary signs are exempt from permitting.

2. Permanent signs. Erection of ground signs of not more than fifteen (15) sq. ft. of face area provided such sign is not greater than ten (10) feet in height and does not utilize electrical devices.

h. Building construction by or for the school board and other entities exempt from local development approval.

i. Communication towers of not more than seventy-five (75) feet in height, and ham radio mast/antenna.

j. LP gas tank change-overs where both old and new tanks are owned by the same entity and tank capacity is not increased.

k. Installation, replacement or relocation of communication antennas, including but not limited to, microwave dishes, collinear antenna, omni-directional antennae and directional panels, on a principal structure including, but not limited to, communication towers, commercial/industrial/multi-family buildings, water towers and power line poles/towers, provided such antenna does not exceed the height of the structure by more than twenty-five (25) feet, complies with all applicable FCC/FAA regulations and applicable building codes and the structure is designed and constructed to accommodate said antenna.

(b) *Minor development.* Unless exempted in subsection (a), a development activity shall be designated a minor development if it does not exceed any of the following criteria:

(1) *Subdivision of land.* The subdivision of a parcel of land into not more than five (5) lots provided each lot created has the required frontage on a county or state maintained road, and the minimum area and dimensions required for its land use zone.

(2) *Site development/activity.*

a. Construction of new impervious surface, not exempt from SWFWMD surface water management permitting, of not more than ten (10) percent of a

development tract or ten thousand (10,000) sq. ft., whichever is less.

b. Excavation of more than two thousand (2,000) cu. yd. but not more than ten thousand (10,000) cu. yd. (i.e. 150'×150'×12') per parcel.

c. Community water supply system wellfields, and accessory facilities, of not more than two hundred fifty thousand (250,000) gallons per day capacity.

d. Wastewater treatment facilities of not more than two hundred fifty thousand (250,000) gallons per day capacity and/or effluent disposal facilities of not more than five hundred thousand (500,000) gallons per day capacity.

e. Commercial temporary activities that do not exceed the following limits:

1. Does not occur on more than twenty (20) acres of land, and

2. Does not attract more than two-hundred fifty (250) persons for single performances or five hundred (500) persons per day for serial performances.

f. Activities filling or recontouring land that require a surface water management permit from the Southwest Florida Water Management District.

g. Land application of septage or sludge.

(3) *Building construction.*

a. Construction of non-residential farm buildings that contain electrical, plumbing or HVAC fixtures.

b. One (1) or two (2) single-family dwelling units, or one two-family dwelling unit on a single parcel.

c. Non-exempt additions to residential units and non-exempt residential accessory buildings.

d. Structure repair or replacement work not exempted from contractor licensing by section 6-18 of this Code.

e. Electrical, plumbing or HVAC repair/maintenance work which increases the system size or scope or exceeds five hundred dollars (\$500.00) in value (materials and labor) in a calendar year.

f. Non residential construction of not more than one thousand (1,000) sq. ft. of enclosed space and two thousand (2,000) sq. ft. of open space.

- g. Erection of non-exempt sign(s).
- h. Non-exempt communication towers that do not exceed two hundred (200) feet in height.
- i. Non-exempt installation, replacement or relocation of communication antennas, including but not limited to, microwave dishes, collinear antenna, omni-directional antennae and directional panels, on a principal structure including, but not limited to, communication towers, commercial/industrial/multi-family buildings, water towers and power line poles/towers, or when such antenna exceeds the height of the structure by more than twenty-five (25) feet.

(4) *Change of occupancy.* Any minor development which changes to an occupancy identified in section 13-171(b)(5).

(c) *Medium development.* Unless exempted in subsection a. or designated a minor development in subsection b, a development activity shall be designated a medium development if it satisfies one (1) or more of the following criteria:

(1) *Subdivision of land*

- a. The subdivision of a parcel into more than five (5) but not more than twenty (20) parcels, where such lots have the required frontage on a county or state maintained road.
- b. Except as provided for in subsection (a)(1), the subdivision of a parcel into more than two (2) but not more than twenty (20) lots, where such lots have the required frontage on a privately maintained road.
- c. A replat resulting in not more than twenty (20) lots.

(2) *Site development/activity.*

- a. Construction of new impervious surface, not exempt from SWFWMD surface water management permitting, of not more than twenty (20) percent of a development tract or twenty thousand (20,000) sq. ft., whichever is less.
- b. Excavation of at least 10,000 cu. yd., but not more than 50,000 cu. yd. (i.e. 250'×250'×22') per parcel.
- c. Community water supply system wellfields, and accessory facilities, of not more than 500,000 gallons per day capacity.
- d. Wastewater treatment facilities of not more than 500,000 gallons per day capacity and/or effluent disposal facilities of not more than one million

(1,000,000) gallons per day capacity.

e. Commercial temporary activities that do not exceed the following limits:

1. Does not occur on more than forty (40) acres of land, and
2. Does not attract more than five-hundred (500) persons for single performances or one-thousand (1,000) persons per day for serial performances.

(3) *Building construction.*

- a. At least three (3) but not more than twenty (20) dwelling units.
- b. Nonresidential construction of more than one thousand (1,000) sq. ft., but less than fifteen hundred (15,000) sq. ft. of enclosed space, or more than two-thousand (2,000) sq. ft. but not more than thirty thousand (30,000) sq. ft. of open space.
- c. Communication towers exceeding two hundred (200) feet in height.

(4) *Change of occupancy.* Any medium development which changes to an occupancy identified in section 13-171(b)(5).

(d) *Major development.* Unless exempted in subsection (a) or designated a minor development or medium development in subsections (b) or (c) respectively, a development activity shall be designated a major development if it satisfies one or more of the following criteria:

(1) *Subdivision of land*

- a. The subdivision of a parcel(s) into more than twenty (20) lots.
- b. A replat resulting in more than twenty (20) lots.

(2) *Site development/activity.*

- a. Construction of new impervious surface, not exempt from SWFWMD surface water management permitting, of more than twenty (20) percent of a development tract or twenty thousand (20,000) sq. ft., whichever is less.
- b. Excavation of at least fifty thousand (50,000) cu. yd., but not more than one hundred thousand (100,000) cu. yd. (i.e. 300'×300'×30') per parcel.
- c. Mining.

- d. Community water supply system wellfields, and accessory facilities, of more than five hundred thousand (500,000) gallons per day capacity.
- e. Wastewater treatment facilities of more than five hundred thousand (500,000) gallons per day capacity and/or effluent disposal facilities of more than one million (1,000,000) gallons per day capacity.
- f. Commercial temporary activities that:
 - 1. Occurs on more than forty (40) acres of land, or
 - 2. Attracts more than five-hundred (500) persons for single performances or one-thousand (1,000) persons per day for serial performances.
- (3) *Building construction.*
 - a. More than twenty (20) dwelling units.
 - b. Nonresidential construction of more than fifteen thousand (15,000) sq. ft of enclosed space or more than thirty thousand (30,000) sq. ft. of open space.
- (4) Change of occupancy. Any major development which changes to an occupancy identified in section 13-171(b)(5).
- (5) Other. Notwithstanding the other provisions of subsections (a), (b), (c) or this subsection, the following development shall be classified as major:
 - a. Any development activity requiring a conditional use approval.
 - b. Any planned unit development land use.
 - c. Any construction and demolition debris landfill.
 - d. Any development designated as a major development by the director, unless specified otherwise by the commission, because:
 - 1. It is part of a larger development that does not qualify as a minor or medium development.
 - 2. It should have major development review due to its complexity, location or potential for adverse impact to the community.
 - 3. It is a controversial project .
(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2003-14, § 1, 8-12-03; Ord. No. 2004-31, § 1, 9-28-04; Ord. No. 2006-25, § 2, 8-15-06)

Sec. 13-104. General administration of amendment and permit applications.

Applications for amendments and permits have the following general administration requirements.

(a) *Pre-application consultation.*

(1) *County staff.* Prior to filing for any amendment or permit, an applicant is strongly encouraged to contact the department for a consultation with the appropriate county development staff. The purpose of this preapplication consultation is for informal discussion of the requirements of the comprehensive plan and this chapter applicable to the proposed development. To minimize development planning costs, avoid misunderstanding or misinterpretation, and assist in compliance with applicable requirements, this meeting should be held in the early conceptual stage of the project. For the purpose of this cursory review, the applicant is encouraged to provide, when appropriate, a sketch plan indicating the proposed project area, its relationship to the surrounding area and the projects general development scheme. During the preapplication consultation, county development staff shall provide the applicant with the best information their knowledge and belief allows. However, final amendment approval lies with the commission and final permit approval may lie with an authority other than the department. Therefore, no applicant may wholly rely upon any comment concerning a proposed amendment or permit made by any participant at any preapplication consultation, as a representation or implication that such proposed amendment or permit will be approved or rejected.

(2) *Regulatory agencies and utilities.* It shall be the responsibility of the applicant to contact all regulatory agencies having jurisdiction, and utility companies having existing or future facilities at the proposed development site. He shall present to them, at an early stage in the development process, the proposed development so that coordination and cooperation may be obtained for the design and permitting process, thus avoiding incompatible and unacceptable design features.

(b) *Application submission.*

(1) *Filing.* A request for an amendment or permit is initiated with the submission of an application by authorized applicants to the director for presentation to the authority.

(2) *Authorized applicants.*

a. Chapter 13 amendments.

1. *Zoning map amendments.* Applications may only be submitted by an owner of record of subject property, or persons who have contracted to purchase or lease the property contingent upon their ability to acquire the necessary amendment, or the authorized agents of such persons (who shall make application in the

name of such owner, lessee, or contract vendor). The director may require an applicant to submit evidence of his/her authority to submit an application. If property is jointly owned, the director may require that all owners initiate the request. In addition, the commission is authorized to initiate a zoning map amendment on any parcel of land in the unincorporated area of the county.

2. Text amendments. Applications may be submitted by any private or public person or entity, or their representative.

b. Land use and development permits (except building permits). Applications may only be submitted by an owner or lessee of record of subject property, or persons who have contracted to purchase or lease the property contingent upon their ability to acquire the necessary permit, or the authorized agents of such persons (who shall make application in the name of such owner, lessee, or contract vendor). The director may require an applicant to submit evidence of his/her authority to submit an application. If property is jointly owned, the director may require that all owners initiate the request.

c. Building permits. Applications may only be submitted by those persons or entities eligible to perform the work under Chapter 489, Part I, Florida Statutes, or Chapter 6, Article II of this Code, or their authorized agent (who shall make application in the name of such eligible person). The director may require an applicant to submit evidence of his/her authority to submit an application. If property is jointly owned, the director may require that all owners initiate the application.

1. Applicants seeking to qualify as owner-occupier under the above laws may be required to furnish the names of all contractors to be used prior to issuance of the permit, or prior to a Certificate of Occupancy being issued.

2. Agents for licensed contractors shall only be accepted after presentation of a notarized affidavit by said contractor.

3. The Building Official shall not accept any application from any person who does not have the proper credentials.

(3) Application fees. A fee is required for each amendment or permit application as specified in the schedule of fees established by the Commission. See Appendix B for application fees.

(4) Application materials. An application form, in a format provided by the director, and other materials, as specified in Appendix A, are required for each amendment or permit application. The position taken by the commission is that all of the information specified in the application form and Appendix A, as required for each amendment or permit, is necessary to satisfy the requirements of completeness, and the burden of presenting a complete application shall be upon the applicant. An application is presumed complete when it contains all of the information required by Appendix A of

this chapter. Notwithstanding the above, it is recognized that each development is unique, and therefore the authority may allow less information or require more information to be submitted according to the needs of the particular application. For applications to be approved by the commission, ZAB and DRB, the applicant may rely in the first instance on the recommendations of the director as to whether more or less information than that set forth in this chapter should be submitted.

(c) *Application processing.*

(1) *Application identification.* Upon filing, an application shall be assigned a unique identification number reflecting the nature of the requested action, and if applicable, the year and month assigned for public hearing and the order of receipt.

(2) *Expeditious processing.* Department and all authorities shall make every reasonable effort to process all applications as expeditiously as possible, consistent with any public notice requirements of Division 7 and schedule of public hearings established by the commission, and with the need to ensure that all approvals conform to the requirements of the comprehensive plan and this chapter and are in the best interests of the citizens of Sumter County.

(3) *Application completeness review.*

a. Time limits. Upon receipt of an application, the director shall review it for completeness within the following time limits, unless specified otherwise in this chapter.

1. Amendments (see Division 2)--Seven (7) days.

2. Use permits (see Division 3).

a)
Permitted use--Three (3) days.

b)
Special use--Ten (10) days.

c)
Conditional use--Twenty (20) days.

d)
Temporary use--Seven (7) days.

3. Development permits (see Division 4).

a)
Minor development--Five (5) days.

b)
Medium development--Fifteen (15) days.

c)
Major development--Thirty (30) days.

b. Request for additional information.

1. The director shall notify the applicant of any apparent errors or omissions and request any additional information the director is permitted by law to require. The time specified for completeness review shall be tolled until receipt of additional information or notice by applicant that no additional information is forthcoming.

2. The failure to correct an error or omission or to supply additional information shall not be grounds for dismissal of an application, provided the information required for public notice is supplied, except that this paragraph does not prevent the authority from denying an application if it does not possess sufficient information to ensure that the requested action is in compliance with applicable statutes and ordinances.

(4) *Review set.*

a. Review set. Upon determination of completeness, or notification that no additional information is forthcoming, the director shall set the application for formal review and action by the authority as presented in Table 13-104A, and in Divisions 2, 3 and 4.

b. Application amendments. An application may be amended after it has been noticed for public hearing, however, such amendment may result in a delay or cancellation of the application's scheduled hearing.

c. Application withdrawal. Applications may be withdrawn by the applicant at any time, however, amendment and use permit applications which require public hearings, that are withdrawn after public notice has been given that the application will be reviewed at a public hearing, are subject to the following:

1. The application cannot be refiled for a period of three (3) months from the date of scheduled public hearing.

2. If the application is withdrawn a second time after public notice, it cannot be refiled for a period of one (1) year from the date of the second scheduled public hearing.

(d) *Review and approval procedure.* Review and approval procedures are established

in Divisions 2, 3 and 4, and are charted for information purposes in Table 13-104A.

(e) *Application review criteria and action.*

(1) *Review criteria.*

TABLE 13-104A DEVELOPMENT REVIEWS AND APPROVALS

CHAPTER 13 AMENDMENTS		USE AND DEVELOPMENT PERMITS							
			USE PERMIT*	DEVELOPMENT PERMITS					
				Site Permit		Record Plat**	Building Permit	Operating Permit	Change Of Occupancy Permit
Type of Amendment		Type of Land Use Approval	Conceptual Plan	Preliminary Plan	Engineering Plan				
		MINOR DEVELOPMENT							
Zoning Map Amendment To Non- PUD	R-zab A-bcc	Permitted	A-dir				A-bo		A-bo
Zoning Map Amendment To-PUD	R-drc R-zab A-bcc	Special	R-dir A-zab				A-bo		
Text Amendment	R-drc R-zab A-bcc	Temporary (short)	A-dir				A-bo		
		Temporary (long)	R-dir A-zab				A-bo		
		MEDIUM DEVELOPMENT							
		Permitted	R-dir A-drc		A-engr	R-drc A-bcc	A-bo		A-dir A-bo
		Special	R-drc A-zab		A-engr		A-bo		
		Temporary (short)	R-dir A-drc		A-engr		A-bo		
		Temporary (long)	R-drc A-zab		A-engr		A-bo		
		MAJOR DEVELOPMENT							
		Permitted	R-drc A-bcc	R-drc A-bcc	R-engr A- drc	R-drc A-bcc	A-bo		A-dir A-bo
		Special	R-drc R-zab A-bcc	R-drc A-bcc	R-engr A- drc		A-bo		
		Conditional	R-drc R-zab A-bcc		R-engr A- drc		A-bo	R-drc A-bcc	
		Temporary	R-drc R-zab A-bcc		R-engr A- drc		A-bo		
Legend									
R = Recommending Authority			zab = Zoning and Adjustment Board				engr = County Engineer		
A = Approving Authority			drc = Development Review Committee				dir = Director of Public Services		
bcc = Board of County Commissioners							bo = Building Official		
* Not required for Planned Unit Development				** Required for medium and major subdivisions					

a. Sufficiency. The burden of presenting a sufficient application to the authority shall be upon the applicant. An application is sufficient when it contains all of the information necessary for the authority to decide, at that level of review, whether the development, if completed as proposed, will comply with all of the requirements of this chapter. The authority shall determine if the application is sufficient, however, unless the authority informs the applicant in what way the application is insufficient and offers the applicant an opportunity to complete the application, the application shall be presumed to be sufficient. If the authority concludes that the application is insufficient

and the applicant refuses to provide the necessary information, the application may be denied. A motion or action to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is insufficient.

b. Consistency.

1. In deciding whether to approve an application, the central issue before the authority is whether the proposed change is consistent with the Goals, Objectives and Policies of the Sumter County Comprehensive Plan, requirements of this chapter, other applicable laws, previously approved plans and permits, and advances the public health, safety or welfare.

c. Other criteria.

1. For Chapter 13 amendments, considerations shall include, but are not necessarily limited to:

- a) Change of conditions, or absence of changed conditions, that may support or not support the amendment.
- b) Community need, or lack of community need, for the proposed land use zone or text change.
- c) Benefits to the community by the amendment.
- d) The rights of private property owners to utilize their property in a free society.

2. For special, conditional and temporary land use permits, considerations shall include, but are not necessarily limited to:

- a) Community need, or lack of community need, for the specified use.
- b) Adverse impacts on the community by the specified use.
- c) Benefits to the community from the specified use.
- d) The rights of private property owners to utilize their property in a free society.

d. Secondary issues. Most other issues are secondary, and all information related to other issues at any public hearing should be regarded as such by the authority. In particular:

1. When considering Chapter 13 amendments:

a) The authority should not consider any representation made by the petitioner that if a change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the authority should consider whether the entire range of permitted uses in the requested zone is more appropriate than the range of permitted uses in the existing zone.

b) The authority should not regard as controlling any advantages or disadvantages to the individual requesting the change, but should balance the rights of that individual with the impact of the proposed changes on the public at large.

2. When considering land use permits the authority should not regard as controlling any advantages or disadvantages to the individual requesting the change, but should consider the impact of the proposed change on the public at large.

(2) *Action on application.* Recommending and approving authorities shall take action on applications as follows:

a. Approve as presented. A motion or action to approve the application as presented shall specify the specific goals, objectives or policies in the comprehensive plan, sections of this chapter or other applicable laws with respect to which the application complies.

b. Approve with conditions. Where authorized in this chapter, the application may be approved subject to conditions. If approved subject to such conditions, the nature of the required conditions shall be indicated in writing on the records of the authority and furnished to the applicant. Acceptance by the applicant of the required changes shall be presumed unless the applicant notifies the director to the contrary, in writing, within thirty (30) days of receipt of the action. Such notification by the applicant, refusing acceptance of one or more of the required conditions shall be considered a rejection of the application approval and such approval shall expire. A new application for the same amendment or permit may not be resubmitted for three (3) months.

c. Disapproval.

1. A motion to approve that fails to obtain an affirmative vote shall be considered an action for disapproval. Subsequent to the vote, the authority shall specify the items of non-compliance.

2. A motion or action for disapproval shall specify the specific goals, objectives or policies in the comprehensive plan, sections of this chapter

or other applicable laws with respect to which the application does not comply (a separate vote may be taken with respect to each law not met by the application). If such a motion, or motions, fail, it shall be conclusively presumed that the application complies with all laws. If the authority concludes that the application fails to meet one or more of the goals, objectives or policies in the comprehensive plan, it shall be denied. If the authority concludes that the application fails to meet one or more requirements of this chapter or other applicable law, it shall be denied unless a variance is granted. If the application is disapproved, the authority shall express its disapproval and the reasons therefore in writing on its records and a statement in writing of such grounds of disapproval shall be furnished to the applicant. Denied applications shall be with or without prejudice. If an application is denied, it shall be presumed to have been done without prejudice, unless specified otherwise in the denial, and may be resubmitted as provided for herein.

3. While adherence to the requirements of the comprehensive plan, this chapter and other laws is mandatory, all recommending and approving authorities shall make reasonable attempts to facilitate a resolution of the non-compliance issues upon which a disapproval is proposed or given, when alternative methods of compliance are apparent.

Nothing herein shall prevent an applicant who has received approval with or without conditions from applying for an amendment to any action by Sumter County, its staff or reviewing boards for an amendment to such approval.

d. Table (continue) the application. If the authority determines that information, evidence or testimony necessary for the proper evaluation of the application is not presented or available at the time of review, it may postpone its decision or action until a future date to provide the opportunity for such to be furnished. The required information, evidence or testimony shall be specified in the motion to table.

e. Return application. At the discretion of the approving authority, the application may be returned to the recommending authority for further consideration where additional material information, which was not reasonably available at time of recommendation hearing, has become known.

(3) Actions of the authority shall be recorded and included in the written minutes of the public hearing or meeting at which the action was considered and all such actions shall be deemed final for purposes of appeal on the date the action is taken.

a. For all amendments and special, conditional and long temporary use permit applications requiring public hearings.

1. Actions of the authority shall be placed in the written minutes of the public hearing, along with the reason(s) for the action, and reported to the applicant and any subsequent recommending or approving authority, in writing, by the director, within five (5) days of such action.

2. A final order shall be issued by the approving authority for all applications. In addition to language specifying the action taken, this order shall contain findings of fact and conclusions of law.

b. For short temporary use and development permits.

1. Actions of the authority shall be placed in the written minutes of the public hearing, along with the reason(s) for the action, and reported to the applicant and any subsequent recommending or approving authority, in writing, by the director, within five (5) days of such action. When an approved plan, plat or permit deviates from the preceding approvals of that development activity, such deviations and the reasons therefore shall be included in the written decision.

(f) *Reapplication.*

(1) *Amendments and use permits.* Whenever the authority disapproves an application for an amendment or use permit, a reapplication for the same amendment or use permit may not be submitted except in conformance with the following:

a. Disapproval without prejudice. Unless specified otherwise in the disapproval, denied applications shall be without prejudice and the same application may be resubmitted to the director any time after a period of ninety (90) days from date of denial has expired.

b. Disapproval with prejudice. When denial with prejudice is specified in the action of the authority, the same application may not be resubmitted to the director for a period of one (1) year from date of denial.

c. Waiver of time. Notwithstanding subsections a. and b., whenever an application is denied on a basis other than the failure of the applicant to submit a complete application, a reapplication may be allowed by the director at any time as follows:

1. Where the applicant clearly demonstrates that circumstances affecting the property that is the subject of the application have substantially changed since the denial; or

2. Where new, material information is available that could not with reasonable diligence have been presented at a previous hearing.

3. A request to be heard on the basis of subsection 1. or 2. may be filed with the director at any time. However, such filing does not extend the time period within which an appeal must be taken. Although an application may be accepted by the director, the final determination for meeting the conditions of subsection 1. or 2. rests solely with the authority.

d. New application. Notwithstanding subsections a., b. and c., new applications affecting the same property previously denied may be submitted. A new application is one that differs in some substantial way from one previously considered. Although an application may be accepted by the director, the final determination for meeting the conditions of a new application rests solely with the authority.

(2) *Development permits.* Disapproved applications for development permits may be resubmitted at any time.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-12, §§ 6--9, 4-25-00; Ord. No. 2000-16, § 2, 6-13-00; Ord. No. 2006-25, § 3, 8-15-06)

Secs. 13-105--13-115. Reserved.

DIVISION 2.

CHAPTER 13 AMENDMENTS

Sec. 13-116. General.

(a) *Amendments required.* An existing or proposed use or development of land must comply with the text and Sumter County Zoning Map (herein referred to as zoning map) of this chapter, except where provided for in Article VI Non-Conforming Situations, and elsewhere herein. Therefore, a proposed use or development of a parcel not allowed by such text or map may not occur except when and if amendments are made that allow such use or development.

(b) *Purpose and intent.* To provide for changes in these land development regulations while maintaining consistency with the comprehensive plan, it is the purpose and intent of this division to establish required procedures for the review and approval of proposed amendments.

(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-117. Review and approval procedure.

(a) *Public notice and hearing requirements observed.* All applications for amendments shall be reviewed and acted upon by the authority in a public hearing which has been noticed and conducted as specified in Division 7.

(b) *Application for zoning map amendment.* Upon completeness of the application, the following shall occur:

(1) *Non-PUD amendment.*

a. ZAB. The application shall be set for a public hearing before the zoning and adjustment board (herein referred to as ZAB) at its next scheduled meeting consistent with public notice requirements. The ZAB shall forward a recommendation to the

commission a minimum of five (5) days prior to its hearing.

b. Commission. The application shall be set for a public hearing before the commission at its next scheduled meeting consistent with public notice requirements and the time required for ZAB recommendation.

(2) *PUD amendment.*

a. DRC. The application shall be considered by the DRC at a public meeting. The DRC shall forward a recommendation to the ZAB five (5) days prior to the ZAB hearing if possible.

b. ZAB. The application shall be set for public hearing before the ZAB at a meeting consistent with the county's comprehensive plan amendment cycle, public notice requirements and the time required for DRC consideration and recommendation. The ZAB shall forward a recommendation to the board of county commissioners five (5) days prior to the commission hearing if possible.

c. Commission. The application shall be set for a public hearing before the commission at its next scheduled meeting consistent with the county's comprehensive plan amendment cycle, public notice requirements and the time required for ZAB (LPA) recommendation.

(c) *Application for text amendment.* The application shall be submitted to the commission for its consideration within ten (10) days of completeness. Upon commission approval to consider said amendment, the county attorney, in consultation with staff or advisory persons or committees approved by the commission, shall draft an appropriate ordinance for consideration. Upon receipt of the proposed ordinance, the commission may establish dates for public hearings. After dates are set for public hearings, it may refer the proposed amendment to the DRB and ZAB for their review and recommendation. The DRB and ZAB shall review the proposed amendment in such a timely fashion that any recommendation it may have can be presented to the commission at the ordinance's first public hearing.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-16, §§ 3, 4, 6-13-00)

Sec. 13-118. Application review criteria and action.

(a) *Review criteria*--See section 13-104(e).

(b) *Actions*--See section 13-104(e).

(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-119. Post approval action.

For approved zoning map amendments, the director shall cause the Sumter County Official Zoning Map to be changed to reflect the approved zoning designation

and boundary, and shall file the application and related documents in an orderly manner. When the approved zoning designation is a PUD, and the required subsequent plan, or partial subsequent plan if the development is phased, is not approved within two (2) years of the date of the zoning map amendment, and an extension of time, not to exceed twelve (12) months, has not been granted by the authority on a demonstration of good cause, the zoning map amendment shall expire. Upon expiration, any PUD designation of the property obtained thereby shall lapse and the property shall be subject to the Future Land Use Map designation it had prior to PUD approval, and the zoning regulations conforming to that designation.
(Ord. No. 96-23, § 9, 12-16-96)

Secs. 13-120--13-140. Reserved.

DIVISION 3.

USE PERMITS

Sec. 13-141. General.

(a) *Purpose and intent.* Upon the effective date of this chapter, all uses of land must comply with Article III, Land Use, except where provided for in Article VI, Non-Conforming Situations. To insure compliance of all new uses of land, it is the purpose and intent of this division to establish permits and permit procedures required for each use of land established in Article III.

(b) *Use permits established and required.*

(1) *Use permits established.* The following use permits are established for the purpose of administering the permissible land uses established in Article III (Land Use):

a. Permitted use permit. This permit is applicable to a use that is indicated as a permitted use in Table 13-362A.

b. Special use permit. This permit is applicable to a use that is indicated as a special use in Table 13-362A.

c. Conditional use permit. This permit is applicable to a use that is indicated as a conditional use in Table 13-362A.

d. Temporary use permit. This permit is applicable to a use that is indicated as a temporary use in section 13-363. The following two types of temporary use, based on proposed length of use, are hereby established for regulatory purposes:

1. Short. Short term temporary use of up to sixty (60) days. For good cause, this use may be renewed for a period of not more than thirty (30) days by the approving authority.

2. Long. Long term temporary use of more than sixty (60) days, but not more than as provided in section 13-363. For good cause, one or more extensions of time may be granted by the approving authority. Each extension shall not exceed the length of time originally granted.

(2) *Use permits required.*

a. Prohibition. Upon the effective date of this chapter, except where provided for in Article VI (Non-Conforming Situations) or exempted as provided for in section 13-103, no use of land shall continue or be established unless permitted by a use permit issued pursuant to this division.

b. Existing land uses. Upon the effective date of this chapter, existing land uses that do not conform to it shall be regarded as follows:

1. When the existing land use was lawfully permitted prior to the effective date of this chapter, it shall be regarded as a non-conforming use and subject to Article VI (Non-Conforming Situations).

2. When the existing land use is not lawfully permitted, but Article III (Land Use) allows such use as a permissible use, the approval and permit for such use shall be obtained pursuant to the requirements of this division.

3. When the existing land use is not lawfully permitted, and Article III Land Use does not allow such use as a permissible use, a Chapter 13 amendment pursuant to Division 2, or other available remedies are required to correct the violation.

c. Proposed land uses. Upon the effective date of this chapter, proposed land uses shall be processed as follows:

1. When Article III (Land Use) specifies a proposed use as a permissible use, the approval and permit for such use shall be obtained pursuant to the requirements of this division.

2. When Article III (Land Use) does not specify a proposed use as a permissible use, a Chapter 13 amendment pursuant to Division 2, or other available remedies are required prior to development.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-142. Application review and approval procedure.

(a) *Public notice and hearing requirements observed.* All applications for use permits shall be classified as minor, medium or major development (see section 13-103) and, except when acted upon by the director, shall be reviewed and acted upon by the authority in a public hearing which has been noticed and is conducted as specified in

Division 7.

(b) *Minor development.* Upon completeness of the application, the following shall occur:

(1) *Permitted use.* The application shall be reviewed and acted upon by the director within five (5) days.

(2) *Special use.*

a. Director. The application shall be reviewed by the director who shall forward a recommendation to the zoning and adjustment board (herein referred to as ZAB) a minimum of five (5) days prior to its hearing.

b. ZAB. The application shall be set for a public hearing before the ZAB at its next scheduled meeting consistent with public notice requirements.

(3) *Temporary use.*

a. Short. The application shall be reviewed and acted upon by the director within five (5) days of completeness. An application not approved by the director shall be processed pursuant to subsection b.

b. Long.

1. The application shall be reviewed by the director who shall forward a recommendation to the ZAB a minimum of five (5) days prior to its hearing.

2. The application shall be set for a public hearing before the ZAB at its next scheduled meeting consistent with public notice requirements.

(c) *Medium development.* Upon completeness of the application, the following shall occur:

(1) *Permitted use.*

a. Director. The application shall be reviewed by the director who shall forward a recommendation to the DRC five (5) days prior to its meeting, if possible.

b. DRC. The application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting.

(2) *Special use.*

a. DRC. The application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting.

b. The application shall be set for public hearing before the ZAB at a meeting consistent with public notice requirements and the time required for DRC consideration and recommendation.

(3) *Temporary use.*

a. Short.

1. The application shall be reviewed by the director who shall forward a recommendation to the DRC five (5) days prior to its meeting, if possible.

2. The application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting.

b. Long.

1. The application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting. The DRC shall forward a recommendation to the ZAB five (5) days prior to the ZAB hearing if possible.

2. The application shall be set for public hearing before the ZAB at a meeting consistent with public notice requirements and the time required for DRC consideration and recommendation.

(d) *Major development.* Upon completeness of the application, the following shall occur:

(1) *Permitted use.*

a. Director. The application shall be reviewed by the director who shall forward a recommendation to the DRC five (5) days prior to its meeting, if possible.

b. DRC. The application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting.

c. Commission. The application shall be set for public hearing before the commission at a meeting consistent with public notice requirements and the time required for DRC consideration and recommendation.

(2) *Special, conditional and temporary use.*

a. DRC. The application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting.

b. ZAB. The application shall be set for public hearing before the ZAB at a

meeting consistent with public notice requirements and the time required for DRC consideration and recommendation.

c. Commission. The application shall be set for public hearing before the commission at a meeting consistent with public notice requirements and the time required for prior review and recommendation.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-16, §§ 5--8, 6-13-00)

Sec. 13-143. Application review criteria and action.

(a) *Review criteria.*

(1) *General.* The conceptual plan review will include an appraisal by the authorities of the difficulties the applicant might encounter in further developing his/her project to comply with the requirements of this chapter. In addition to other criteria established in this chapter, the following requirements must be considered in reviewing applications for use permits.

a. The use must be in harmony with the purpose and intent of this chapter.

b. The use must be compatible with surrounding uses and existing and anticipated land use patterns in the area.

c. The use must not adversely effect the public interest. Adequate traffic circulation, sanitary, utility, drainage, refuse management, emergency services and similar necessary facilities and services shall be available for the use. A use shall not create hazardous vehicular or pedestrian traffic conditions, or parking congestion, or generate traffic that exceeds the capability of roads and streets serving the use, or otherwise affect public safety. It shall not adversely affect the county's ability to provide essential public services.

d. The site must be suitable for the proposed use, considering flood hazard, drainage, soils, and other conditions which may pose a danger to life, health or property. The site upon which a use is located shall have suitable drainage, access, ingress and egress, off-street parking, storage and loading areas.

e. The location, construction, operation, and maintenance of the use shall have no more than a minimal adverse effect on the environment and public health, safety, and welfare.

f. The kind and extent of improvements proposed and the cooperation of the developer concerning changes deemed advisable shall be considered.

g. Unless specifically provided otherwise, the use shall comply with all general code requirements and the requirements of the zoning district in which it is located (including setbacks).

(2) *Special, conditional and temporary uses.* In addition to other criteria established in this chapter, the following requirements must be considered in reviewing applications for special, conditional, and temporary use permits. Additional standards or different standards for specific uses may be required or allowed in other sections of this Code.

a. The use must not be detrimental to the neighborhood environment and must not unduly infringe on the rights of property owners in the vicinity of the use.

b. A vehicular parking or traffic problem must not be created, and the vehicular average daily traffic created on local roads must not be increased by more than five (5) percent. Staff, reviewing agencies and the commission may rely on input from the Florida Department of Transportation, the Florida Highway Patrol and the Sumter County Sheriff's office in making this determination.

c. If found necessary and effective, the site upon which the use is located shall have screening and buffering sufficient to minimize interference with the enjoyment of surrounding properties. The impact of nuisance or hazardous features involved in the use shall be minimized by buffers such as screening or open areas.

(b) *Action on application.*

(1) *Actions.* Actions on applications shall be as specified in section 13-104(e).

(2) *Actions in writing.* All actions of the authority shall be recorded as follows:

a. *Approved uses.*

1. Permitted and short temporary uses. A use permit shall be issued by the approving authority for all approved applications.

2. For special, conditional, and long temporary uses. A use permit shall be issued by the approving authority for all approved applications. The use permit shall be recorded by the director in the public records of Sumter County prior to any development permits being issued pursuant to the use permit.

3. *Conditions.* In recommending or granting all use permits, except permitted uses, the authority may, upon consideration of review criteria and the purposes of this chapter, impose such reasonable and appropriate conditions and safeguards as will ensure that the use of the property to which the application applies will be as compatible as practicable with the surrounding properties and further the purposes of this chapter. Therefore, the approving authority may require design, construction and operation standards above what is specified in this chapter if it finds that such additional standards are necessary. In addition to the findings of fact, conclusions of law and language specifying the nature of the use and the action taken, the use permit shall contain any prescribed conditions and safeguards imposed by the approving authority. All conditions

attached to the use permit are enforceable in the same manner as any other applicable requirements of this chapter and such use shall be limited by whatever restrictions the approving authority places on the approval. A use permit may be issued for an indefinite or specified duration in compliance with other provisions of this chapter.

b. Disapproved uses. Actions of the authority disapproving a use or application shall be included in the written minutes of the public hearing or meeting at which the application was considered and all such actions shall be deemed final for purposes of appeal on the date the action is taken.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-12, § 10, 4-25-00; Ord. No. 2006-25, §§ 4, 5, 8-15-06)

Sec. 13-144. Post-approval actions.

(a) *Development permit.* Upon issuance of any use permit, the applicant may submit an application for a development permit, as required by Table 13-104A. If a required subsequent permit or plan, or partial subsequent plan if the development is phased, is not approved within two (2) years of the date of the use permit, and an extension of time, not to exceed 1 year, has not been granted by the authority on a demonstration of good cause, the use permit shall expire.

(b) *Wellfields.* Upon issuance of a special use permit for a community water supply system wellfield, the owner of any property within the wellhead protection zone shall be notified of such action and the limitations imposed on such lands. In addition, documents identifying the encumbered land and the encumbrances shall be recorded in the public records of Sumter County by the department.

(c) *Renewal or extensions.*

(1) *Special and conditional use permits.* Special and conditional use permits may be approved for a specified length of time. Requests for extension of such a permit may be made to the same authority initially approving it. Such extension may be granted, subject to the same review as the original application.

(2) *Temporary use permits.* Temporary use permits are approved for a specified length of time. Requests for renewal of such a permit may be made to the same authority initially approving it. Such renewal may be granted, subject to the standards herein, however the director may only renew a short temporary use permit one (1) time for a maximum of thirty (30) days.

(3) *Termination.* At the end of the time period for which a use permit was issued, including any renewal or extension periods, the use shall be discontinued, and all temporary structures involved shall be removed. Failure to comply with this requirement shall be a violation of this Code.

(d) *Use permit amendment.* Applications for substantial amendments to

approved use permits shall be reviewed and acted upon in the same manner as the existing use permit.

(e) *Violations, penalties.* All temporary, special and conditional use permits are issued subject to the conditions contained therein. The continuance of such permits for the permit period requires compliance with all conditions of the permit and other applicable provisions of this Code.

a. Permit suspension/revocation.

1. Permits may be suspended or revoked by the approving authority for, but not necessarily limited to, the following causes:

a) Submission by the holder of false or inaccurate information in the permit application.

b) A substantial, or repeated violation of the terms and conditions of the approved permit, or any other ordinance, regulation, or law, including any state or federal rule or regulation.

c) Refusal by the holder to allow lawful inspections of the permitted facility.

d) When necessary to protect the public health, safety, welfare or the environment.

2. Notification. When the approving authority has cause to believe that grounds for suspension or revocation exists, it shall notify the property owner in writing, by certified mail, stating its intent to suspend or revoke the operating permit and the reason for such action. The owner may request a hearing before the approving authority on the intent to suspend or revoke. Such request must be in writing and received within fifteen (15) days from receipt of such notice. If a request for a hearing is made, it shall be held before the authority within forty-five (45) days of receipt of the request. If no written request for a hearing is received within the time specified, the permit approval shall be deemed suspended or revoked. Upon suspension or revocation, the authority shall notify the owner in writing, by certified mail, of such action and, upon receipt of that notification, no further operations shall occur, except as specified in the suspension or revocation action. Operations shall not resume until and unless the suspension or revocation is removed.

3. Notwithstanding the provisions of subsection 2., upon determination by the approving authority that any of the activities conducted under the use permit have created, or will likely create, a hazardous condition threatening the public health, safety or welfare, and that an emergency situation exists, the authority may reduce the request for hearing time period, as appropriate to the situation.

(Ord. No. 96-23, § 9, 12-16-96)

Secs. 13-145--13-170. Reserved.

DIVISION 4.

DEVELOPMENT PERMITS

Sec. 13-171. General.

(a) *Purpose and intent.* Upon the effective date of this chapter, all new development of land shall comply with Articles IV (General Development Standards) and V (Specific Use Standards) of this chapter, except where provided for in Article VI (Non-Conforming Situations), and elsewhere herein. To insure compliance of all new development with these standards, it is the purpose and intent of this Division to establish permits and permit procedures for authorizing non-exempt development activities.

(b) *Development permits established and required.* The following permits are hereby established and required as specified. No non-exempt subdivision of land or substantial grading, excavation, paving, utility installation or other site work, or construction, erection, movement, improvement, alteration or demolition of any building or other structure, or operation of a conditional use, or change of occupancy shall occur after the effective date of this chapter without a development permit issued pursuant to this Division.

(1) *Site permit.*

a. Established. There is hereby established a site permit which allows the applicant to perform substantial grading, paving and excavation and to construct drainage, utilities and other site work in compliance with approved plans.

b. Permit required. No work as described herein shall be performed on any medium or major development prior to obtaining a site permit. No other development permit shall be issued for any portion of a proposed development, nor shall any public or private facility or improvement be constructed therein until a site permit has been issued, except the approving authority may permit limited construction of improvements before site permit issuance, provided that the principal benefit of such construction is not to establish an irrevocable vested interest in the permit, but rather to benefit the timely construction of public facilities not totally oriented to the proposed development.

c. Site permit plans. Except as provided in Article VI (Non-conforming Situations), all proposed development of land must comply with Article IV. (General Development Standards) and Article V. (Specific Use Standards) of this chapter. Therefore, as an integral part of the permitting process, all proposed site improvements for medium and major development must be approved for compliance with these standards through reviews of one (1) or two (2) development plans, namely preliminary plan and engineering plan, as described below and required herein.

1. Preliminary plan. This plan shows an extensive amount of information concerning the property and the development proposed thereon. See Appendix A for specific requirements for preliminary plans.

2. Engineering plan. This plan includes the detailed engineering information necessary for the construction of all required physical improvements designed to serve the development. See Appendix A for specific requirements for engineering plans.

(2) *Record plat.*

a. Established. There is hereby established a record plat which allows the applicant to sell or otherwise convey real property created by medium and major subdivisions. No transfer of subdivided property shall occur except in conformance with this chapter.

b. Record plat. All subdivision of residential property for medium or major development shall be required to prepare, and file with the County Clerk, a record plat of the development in accordance with Chapter 177, F.S. See Ch. 177 F.S. and Appendix A for specific requirements for record plats.

(3) *Building permit.*

a. Established. There is hereby established a building permit which allows the applicant to construct, erect, move, improve or substantially alter buildings or other structures in compliance with approved plans. Building, electrical, plumbing, mechanical, gas and all other permits required by the building codes specified in Appendix 13E. are included in this type. This permit grants no authority to violate, cancel, alter, or set aside any applicable code, regulation, requirement, ordinance or law, regardless of what may be shown or omitted on the permit documents, except where such is specifically given by the approving authority.

b. Permit required. All non-exempt on-site construction, erection, addition to, alteration, repair and demolition of buildings and other structures, and the installation of manufactured buildings and mobile homes for minor, medium and major development shall require a written building permit.

c. Building permit plans. This plan is drawn to scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and shall show in detail that it will conform to the provisions of all applicable codes. See Appendix A. for specific requirements.

(4) *Operating permit.*

a. Established. There is hereby established an operating permit for land uses

approved as conditional uses under this Code, which, because of their increased potential for adverse effects on public health, safety, welfare and the environment warrant a degree of permitting, monitoring and other controls not necessary for permitted, special or temporary uses. An operating permit is not a permit of right and shall allow operation of the usage only so long as it is conducted in compliance with all local, state and federal laws and permit conditions and only so long as the operation does not create a danger to the public health, safety and welfare. There is no presumption that an operating permit will be issued or renewed.

b. Permit required. No conditional use, as specified in this chapter, shall be operated prior to obtaining an operating permit

c. Permit authority. An operating permit shall allow the applicant to operate a conditional use in compliance with approved plans and conditions. It shall set forth in writing all general and specific conditions, safeguards and stipulations upon which the conditional use development and operation approval is granted. An operating permit constitutes authorization to commence specified activities and utilize the site or location of said use in the manner specified in the conditions, safeguards, stipulations and authorization of said permit, for a specified period of time.

(5) *Change of occupancy permit.*

a. Classification of occupancies. Principal uses of land and structures, except agriculture, shall be classified according to one of the following occupancies.

1. Assembly.
2. Business.
3. Educational.
4. Hazardous.
5. Factory industrial.
6. Institutional.
7. Mercantile.
8. Residential.
9. Storage.

b. Established. There is hereby established a change of occupancy permit which allows the applicant to use a structure for an occupancy permissible in this chapter but for which the structure is not presently approved.

c. Permit required. No change of occupancy from one classification to another, as described herein, shall be made in any minor, medium or major development prior to obtaining a change of occupancy permit.
(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2003-1, 1-14-03)

Sec. 13-172. Review and approval procedure.

(a) *General.*

(1) *Set for review.* Upon determination of completeness, or notification that no additional information is forthcoming, the director shall set the application for formal review and action by the authority as presented herein and in Table 13-104A.

(2) *Development classified for review.* All applications for development permits shall be classified as minor, medium or major development (see section 13-103) and, except when approved by the director, engineer or building official, shall be reviewed and acted upon by the authority in a public hearing which has been noticed and is conducted as specified in Division 7.

(b) *Site permit.* Where a site permit is required, the following review and approving procedures shall be followed in the order prescribed.

(1) *Medium development.* Upon completeness of the engineering plan materials submitted, the plan shall be reviewed by the county engineer for approval.

(2) *Major development.*

a. Preliminary plan. Upon completeness of the materials submitted, the following shall occur:

1. The plan shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting. The DRC shall forward a recommendation to the commission five (5) days prior to the commission hearing if possible.
2. The application shall be set for public hearing before the commission at a meeting consistent with public notice requirements and the time required for prior review and recommendation.

b. Engineering plan. Upon completeness of the materials submitted, the following shall occur:

1. The plan shall be reviewed by the county engineer who shall forward a recommendation to the director five (5) days prior to the DRC meeting, if possible.

2. The plan shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting. Upon approval, the director shall issue a site permit for the development which authorizes the applicant to commence construction on the approved project improvements.

c. Disputes. To aid in the prevention of disputes and litigation arising from application or interpretation of these land development regulations to the site improvements of the applicant's proposed development, it is hereby established as a policy of the commission, that the director of planning and development for medium development, and the DRC for major development, shall decide all questions, difficulties, and disputes which may arise relative to such matters. Their position shall be final unless specifically overruled by the commission. As the principal reviewer and approver of such plans, they shall have the authority to approve the plans provided no variances or deviations from the requirements of this Code or its appendices are required. An application with a request for a variance or deviation shall be reviewed by the DRC and a recommendation forwarded to the commission for final action.

(c) *Record plat.*

(1) *Alternate procedures.* After a site permit is issued, the applicant may follow either of the following two procedures in obtaining record plat approval on subdivided property.

a. Build-plat. This procedure is applied to development in which record plat approval and recording is done after the site infrastructure improvements are completely constructed and approved.

1. Upon completion of the site improvements, the developer shall submit the items required in Appendix A to the director. Upon receipt of these items, the public works director and county engineer shall inspect such improvements for compliance with the approved engineering plan.

2. Upon concurrence by the public works director and county engineer that all required site improvements have been constructed in substantial compliance with the approved plans and site permit, the director shall notify the applicant, who may then submit the record plat. Said plat and materials shall be reviewed and acted upon as specified in subsection (2).

b. Plat-build. This procedure is applied to development in which record plat approval and recording is done prior to the site infrastructure improvements being constructed or completed. Upon issuance of a site permit, the applicant is authorized to commence construction on the approved project improvements and/or submit the record plat and other materials required in Appendix A. Said plat and materials shall be reviewed and acted upon as specified in subsection (2).

(2) *Plat review.* Upon completeness of the materials submitted, the following shall occur:

a. The plat shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting. The DRC shall forward a recommendation to the commission five (5) days prior to the commission hearing if possible.

b. The plat shall be set for public hearing before the commission at a meeting consistent with public notice requirements and the time required for prior review and recommendation.

c. Upon commission approval of the record plat, the chairman shall execute same. Upon execution, the director shall present the record plat to the clerk of circuit court for recording.

(d) *Building permit.*

(1) *Review/approving authority.* The reviewing and approving authority for all applications for building, electrical, plumbing, mechanical and other permits for building construction shall be the building official. He may inspect any property, for which an application for a building permit has been received, for soil and other site conditions, prior to issuance of the permit. He may also inspect any building for which an application has been received for a permit to enlarge, alter, repair, move, demolish prior to permit issuance.

(2) *Procedure.* Upon completeness, applications shall be reviewed and acted upon by the building official within the following time limits:

a. Minor development--Seven (7) days.

b. Medium development--Fifteen (15) days.

c. Major development--Thirty (30) days.

(3) *Permitting.* Upon approval of the building plan and other application materials, a building permit shall be issued by the building official.

(e) *Operating permit.* Where an operating permit is required, the following review and approving procedures shall be followed in the order prescribed.

(1) DRC. Upon completeness of the materials submitted, the application shall be placed on the agenda of the DRC at a duly scheduled and noticed meeting. The DRC shall forward a recommendation to the commission five (5) days prior to the commission hearing if possible.

(2) The application shall be set for public hearing before the commission at a meeting consistent with public notice requirements and the time required for prior review and recommendation.

(3) *Term.* An operating permit approval shall be for a specified period of time, which may not exceed ten (10) years. The approved period shall commence with the issuance of the permit.

(f) *Change of occupancy permit.* Where a change of occupancy permit is required, the following review and approving procedures shall be followed:

(1) *Minor development.* The reviewing and approving authority for all applications for minor development changes of occupancy shall be the building official. Upon completeness, he shall review and act on the application within five (5) days. He may inspect any property, for which an application for a change of occupancy has been received, for site and structure conditions, prior to issuance of the permit.

(2) *Medium and major development.* The reviewing and approving authority for all applications for medium and major development changes of occupancy shall be the director and building official. Upon completeness, they shall review and act on the application within fifteen (15) days and thirty (30) days respectively. They may inspect any property, for which an application for a change of occupancy has been received, for site and structure conditions, prior to issuance of the permit.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-16, §§ 9--11, 6-13-00)

Sec. 13-173. Application review criteria and action.

(a) *Review criteria.* In addition to the provisions of this chapter, development permits will be reviewed for compliance of other applicable codes and standards.

(b) *Action.*

(1) *Action.* Actions on applications shall be taken as specified in section 13-104(e).

(2) *Permit conditions.* A development permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the approving authority. Development permits are issued only when land use and required plan approval has been obtained, as required by this chapter, and a review of the application submitted indicates that the development will comply with the provisions of prior approvals and this Code, if completed as proposed. Such applications and plans, as are finally approved, are incorporated into any permit issued, and except as otherwise provided herein, all development shall occur strictly in accordance with such approved application and documents.

(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-174. Post-approval action/requirements.

(a) *Site permit.*

(1) *Preliminary plan.* Upon approval of a preliminary plan, the applicant may submit engineering plans required by Table 13-104A. An applicant shall have two (2) years from date of preliminary plan approval in which to obtain engineering plan approval. If an applicant has not obtained such approval within this time period, and an extension of time, not to exceed one (1) year, has not been granted by the authority on a demonstration of good cause, the preliminary plan approval shall expire and the applicant must reapply under the provisions of this chapter currently then in effect.

(2) *Engineering plan.* Upon approval of the engineering plan and issuance of a site permit, the following shall apply:

a. *General.*

1. A site permit shall automatically expire if construction on site improvements is not started within one (1) year of its issuance. Start of construction shall mean actual construction of roadways, utilities or buildings in accordance with approved development plans. Clearing, grubbing, and other preliminary site preparation activities shall not constitute start of construction for the purpose of this section.

2. Upon issuance of a site permit, a building permit may be issued for any structure providing public services to the development, however, a certificate of occupancy shall not be issued until all required improvements serving that structure are completed and approved.

b. *Non-platted development.*

1. Upon issuance of a site permit, the applicant may submit applications for any additional permits required by Table 13-104A.

2. An applicant shall have two (2) years from date of site permit issuance to complete the site improvements. If such improvements are not completed, and an extension of time, not to exceed one (1) year, has not been granted by the authority on a demonstration of good cause, the site permit shall expire and the applicant must reapply under the provisions of this chapter currently then in effect.

3. Upon completion of the site improvements, the developer shall submit the items required in Appendix A to the director. Upon receipt of same, the public works director and county engineer shall inspect such improvements for compliance with the approved engineering plan.

4. Upon concurrence by the public works director and county engineer that all required site improvements have been constructed in substantial compliance with the approved plans and site permit, the director shall notify the applicant and release the development for Certificates of Occupancy upon approval by the building

official.

c. Platted development.

1. Maintenance of improvements. After a site permit has been issued, the applicant shall construct and maintain all streets and other improvements until such time as the improvements are dedicated to the public and accepted by the commission or until the responsibility of such improvements is placed with a maintenance entity acceptable to the commission.

2. Platting time limit. When platting is required, an applicant shall have two (2) years from issuance of a site permit in which to obtain record plat approval. If an applicant has not obtained record plat approval within this time period, and if an extension of time, not to exceed one (1) year, has not been granted by the approving authority on a demonstration of good cause, the site permit shall expire and the applicant must reapply under the provisions of this chapter currently then in effect.

(b) *Record plat.*

(1) *General.* Upon record plat approval and recording, building permit applications may be submitted. Building plans shall be prepared as required in Appendix A and submitted, processed, reviewed and acted upon pursuant to the requirements of this chapter.

(2) *Build-plat.*

a. Upon record plat approval and recording, a building permit and certificate of occupancy may be issued for any structure.

b. At least sixty (60) days, but not more than ninety (90) days, prior to expiration of any two-year performance agreement and guarantee, the commission shall inspect all physical improvements covered by same. Upon concurrence by the public works director and county engineer that the site improvements are acceptable, the commission shall release said agreement and any accompanying guarantee. Upon this release, physical improvements dedicated to the public are accepted by the commission, subject to other actions by the commission.

(3) *Plat-build.*

a. Upon record plat approval and recording, building permits on up to forty-nine (49) percent of residential and commercial construction may be issued.

Upon completion of all required improvements except the final leveling course of asphalt on platted streets, building permits on one-hundred (100) percent of residential and commercial construction may be issued, however, a certificate of occupancy shall not be issued until all required improvements, including the final leveling course of platted

streets serving each structure is completed and approved and a performance agreement and guarantee is in effect.

In order for more than forty-nine (49) percent of building permits to be issued prior to the final leveling course being completed, the developer shall provide an acceptable financial guarantee in an amount equal to one hundred twenty-five (125) percent of the cost of the final leveling course. Each plat shall clearly set forth the linear footage of all platted streets and the cost shall be determined by multiplying the number of linear feet times the cost per linear foot of the final leveling course as certified by the developer's engineer with the concurrence of county engineers or public works personnel.

b. Upon completion of the site improvements, the developer shall submit the items required in Appendix A to the director. Upon receipt of these items, the public works director and county engineer shall inspect such improvements for compliance with the approved engineering plan.

c. Upon concurrence by the public works director and county engineer that all required site improvements have been constructed in substantial compliance with the approved plans and site permit, the director shall so report to the commission and notify the applicant.

d. Upon submission of a two-year maintenance agreement and guarantee and the commission's acceptance of the improvements, the construction agreement and accompanying guarantee will be released by commission.

e. Upon submission of the maintenance agreement and guarantee, and acceptance by the commission, the director shall release the development for certificates of occupancy, upon approval by the building official.

f. At least sixty (60) days, but not more than ninety (90) days, prior to expiration of any two-year maintenance agreement, the commission shall inspect all physical improvements covered by same. Upon concurrence by the public works director and county engineer that the site improvements are acceptable, The commission shall release said agreement and any accompanying guarantee. Upon this release, physical improvements dedicated to the public are accepted by the commission, subject to other actions by the commission.

(c) *Building permit.*

(1) *Placard posting.* Upon issuance of a building permit, and prior to commencement of construction, the permittee shall cause the issued permit placard to be conspicuously posted on the job site at a location that makes it clearly visible from the road, or access way to the structure, and in such a manner that affords it protection from the weather and allows inspectors to conveniently make written entries. If the placard is lost or destroyed, a duplicate replacement shall be secured from the building official on the first workday after such loss.

(2) *Inspections.* Permit inspections shall be requested by the holder and performed by the building official as provided in Appendix 13E.

(3) *Permit time limit.* Notwithstanding requirements to the contrary in the building codes specified in Appendix 13E, time limits on all building permits shall be as follows:

a. Unless specified otherwise by the building official at time of permitting, permits are valid for one year from date of issuance, subject to revocation as provided herein. Upon application, and before expiration, permits may be renewed for one (1) additional year.

b. Work for which permits have expired shall be re-permitted as new work with fee credit given for work already inspected.

(4) *Certificate of occupancy.* Upon approval of the final building inspection, the building official shall issue the certificate of occupancy for subject building.

(d) *Operating permit.*

(1) *Permit issuance.* Upon approval of the operating permit, payment of the required monitoring fee and satisfaction of other applicable requirements such as bonding and insurance, the permit shall be issued by the director. Upon issuance, the property owner and operator of record each individually and collectively assume full responsibility for compliance with all stipulations and conditions of the permit. No operation of any conditional use shall occur prior to the issuance of the operating permit.

(2) *Inspections and reports.*

a. *Inspections.* Inspections of all conditional use operations shall be conducted as determined appropriate by the commission, or as complaints arise concerning the use. By seeking and obtaining an operating permit, the operator shall be deemed to have consented to inspections by the commission and other appropriate regulatory agencies, upon reasonable notice and presentation of proper credentials.

b. *Reports.* The holder of an operating permit shall submit copies of all tests and monitoring reports, required by state agencies, to the commission, within ten (10) days after their submission to such agency.

(3) *Annual requirements.*

a. *Progress report.* Each holder of a county operating permit shall submit to the commission an annual progress report, in writing, within forty-five (45) days after the anniversary date of the permit issuance. This report shall include any information required in Appendix A of this chapter. Upon submission, the DRB shall review the report and submit to the commission any concerns or recommendations it may have

concerning the operation as reported. Failure to file a report shall be grounds for suspension or revocation of the permit. An extension of time for filing may be granted by the commission upon request and for good cause shown.

b. Fee. Along with the annual progress report, each holder of an operating permit shall submit to the commission an annual monitoring fee. This fee shall be established by the commission in its schedule of fees and used to fund permit monitoring for the forthcoming year.

(4) *Renewal.* An operating permit may be renewed for periods not exceeding ten (10) years each, or less if specified by the commission. Persons holding operating permits shall file for renewal, in writing, at least ninety (90) days, but not more than one hundred and eighty (180) days, prior to the permit's expiration date. Upon submission, the development review board and the zoning and adjustment board shall each review the request and submit a renewal recommendation to the commission. A conditional use which fails to have its operating permit renewed in a timely manner shall be suspended until such renewal is obtained. An extension of time for filing may be granted by the commission upon request and for good cause.

(5) *Amendment of operating permit.* An operating permit may be amended, upon request of the applicant, if such modification is not in violation of this Code. Any substantial expansion, alteration or change in the conditional use authorized in the original operating permit, as determined by the commission, must be reviewed by it in the same manner as the original permit application. The holder of the operating permit shall initiate the application for an expansion, alteration or change. The commission may also initiate the amendment process if it finds an amendment necessary to enable the facility to remain in compliance with this Code.

(6) *Transfer of operating permit.* The transfer of an operating permit between entities must be reviewed and approved by the commission. The existing property owner and prospective operator, or vice-versa, as the case may be, shall apply for the transfer, in a format provided by the director. All owner/operator information required in the original permit application shall be provided. Applications for transfer shall be reviewed by the DRC and forwarded to the commission with a recommendation.

(7) *Violations, penalties.* All operating permits are issued subject to the conditions contained therein. The continuance of such permit for the permit period requires compliance with all conditions of the permit and other applicable provisions of this Code.

a. Permit suspension/revocation.

1. Permits may be suspended or revoked by the commission for, but not necessarily limited to, the following causes:

a) Submission by the holder of false or inaccurate information in the permit application.

- b) A substantial, or repeated violation of the terms and conditions of the approved operating permit, or any other ordinance, regulation, or law, including any state or federal rule or regulation.
- c) Refusal by the holder to allow lawful inspections of the permitted facility.
- d) Failure to file the required annual progress report and monitoring fee with the commission.
- e) Failure to file copies of tests and monitoring reports required by state agencies with the commission.
- f) Failure to maintain the required insurance and bonding.
- g) When necessary to protect the public health, safety, welfare or the environment.

2. Operator notification. When the commission has cause to believe that grounds for suspension or revocation exists, it shall notify the operator in writing, by certified mail, stating its intent to suspend or revoke the operating permit and the reason for such action. The owner or operator may request a hearing before the commission on the intent to suspend or revoke. Such request must be in writing and received within fifteen (15) days from receipt of such notice. If a request for a hearing is made, it shall be held before the commission within forty-five (45) days of receipt of the request. If no written request for a hearing is received within the time specified, the operating permit approval shall be deemed suspended or revoked. Upon suspension or revocation, the commission shall notify the operator in writing, by certified mail, of such action and, upon receipt of that notification, no further operations shall occur, except as specified in the suspension or revocation action. Operations shall not resume until and unless the suspension or revocation is removed.

3. Notwithstanding the provisions of subsection 2., upon determination by the commission that any of the activities conducted under the operating permit have created, or will likely create, a hazardous condition threatening the public health, safety or welfare, and that an emergency situation exists, the commission may reduce the request for hearing time period, as appropriate to the situation. (Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-16, § 12, 6-13-00; Ord. No. 2003-1, 1-14-03; Ord. No. 2005-23, § 1, 9-13-05)

Secs. 13-175--13-190. Reserved.

DIVISION 5.

RESERVED

Secs. 13-191--13-200. Reserved.

DIVISION 6.

RECOMMENDING AND APPROVING AUTHORITIES

Sec. 13-201. General.

Applications for amendments and permits are acted upon by persons or entities identified as recommending or approving authorities in this chapter. The purpose of this division is to establish and/or further identify and describe these authorities.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-202. Board of County commissioners.

(a) *Authority and duties related to this chapter.* The Sumter County board of commissioners (herein referred to as commission) shall have the following authority and duties regarding development and growth management in their area of jurisdiction:

- (1) *Comprehensive plan.* Acting in a legislative capacity, the commission shall prepare, adopt and amend the county comprehensive plan in accordance with Chapter 163, F.S.
- (2) *Development code.* Acting in a legislative capacity, the commission may amend this chapter, including zoning map amendments, and other growth management rules and regulations in conformance with its adopted comprehensive plan and state statutes.
- (3) *Land use permits.* Acting in a quasi-judicial capacity, the commission may issue land use permits, as specified herein.
- (4) *Development permits.* Acting in an administrative capacity, the commission may issue development permits, as specified herein.
- (5) *Variances.* Acting in a quasi-judicial capacity, the commission may issue variances from the requirements of this chapter, as specified in section 13-237.
- (6) *Appeals.* Acting in a quasi-judicial capacity, the commission shall, upon application and in conformity with the provisions of this chapter, review and act upon appeals when it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of any provision of this chapter.
- (7) *Appointments.*
 - a. Pursuant to Chapter 125, F.S., the commission may appoint other boards,

agencies and hearing officers to administer specified functions in this chapter.

b. Notwithstanding the agencies and boards established in this chapter, the commission may establish independent advisory groups, committees or commissions to make recommendations on any development issue directly to the commission.

(b) *Commission operation.* Unless otherwise specifically provided, the commission shall follow requirements for voting and other matters as set forth in this chapter, the Sumter County Code, Florida Statutes and general law.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-203. Zoning and adjustment board.

(a) *Establishment and purpose.* There is hereby established, pursuant to and in accordance with the provisions of Chapter 163, F.S., a zoning and adjustment board (herein referred to as ZAB) whose principle functions shall be as specified in subsection (b).

(b) *Duties and authority.* The ZAB's duties and authority shall be as follows:

(1) *Local planning.* To sit as the local planning agency in performing the following duties:

a. Conduct studies and develop recommendations to the commission concerning goals, objectives and policies related to comprehensive planning for the growth, development and re-development of the county.

b. Conduct studies and develop recommendations to the commission concerning policies, ordinances, administrative procedures, and other means for carrying out planning in a coordinated and efficient manner.

(2) *Zoning and adjustments.*

a. To sit as the zoning board and hold public hearings for the purpose of recommending to the commission on applications for re-zoning or other amendments to this chapter.

b. To sit as an adjustment board and hold public hearings for the following purposes:

1. To recommend or approve/disapprove applications for special, conditional and temporary use permits, all as specified in Table 13-104A.

2. To approve/disapprove applications for variances, as specified in section 13-237.

(3) *Development policies.* To review development regulations, policies and problems, and make recommendations to the commission on amendments to this chapter.

(4) *Other.* To perform any other related duties assigned by the commission.

(c) *Membership.*

(1) *Appointment.* The ZAB shall consist of eleven (11) regular members and two (2) alternate members, appointed by the commission. Each member shall be a resident of Sumter County and meet all other appointee requirements established by the commission. No more than three (3) regular members may represent any one (1) occupation, business interest or profession, and no member shall be a paid or elected official of Sumter County or any municipality located therein. There shall be two (2) regular members appointed from and representing each county commission district and one (1) regular member and two (2) alternate members (alternate No. 1 and alternate No. 2) appointed at large.

(2) *Terms.*

a. The terms of members representing county commission districts shall run concurrently with the term of the commissioner representing that district. The term of the regular member appointed at large shall run concurrently with commission districts 1, 3 and 5 and the terms of the two alternate members shall run concurrently with commission districts 2 and 4. Members may continue to serve until their successors have been appointed and may be appointed to successive terms without limitation. Board members serve at the pleasure of the commission and may be removed by action of the majority of same. Failure to attend hearings, as prescribed in the commission's appointment policy, or any other good cause related to performance or qualifications are grounds for dismissal. A member who ceases to be a resident of Sumter County shall be automatically dismissed.

b. Vacancies occurring during the unexpired term of a member shall be filled within thirty (30) days after the vacancy occurs.

(3) *Organization.* At its initial meeting and at its first meeting in each year thereafter, the ZAB shall elect, by majority vote of its membership, one of its members to serve as chairman and preside over the board's meetings, and one member to serve as vice-chairman, except that both offices shall not be held by members representing the same commission district. Those persons so elected shall serve for terms of one (1) year. Vacancies in these offices may be filled for the unexpired terms only, by majority vote of the membership. The chairman and vice-chairman may take part in all deliberations and shall vote on all issues, unless prohibited by law. The director shall serve as secretary to the ZAB.

(4) *Advisory members or committees.* As necessary, the commission may appoint one or more individuals or committees to assist the ZAB in performing its planning and zoning responsibilities with respect to a particular subject area. Individuals and members

of such advisory committees shall sit as nonvoting members on the ZAB when such issues are being considered and lend their talents, energies, and expertise to it. However, all formal recommendations and other actions to the commission shall be made by the ZAB.

(d) *Meetings.*

(1) *Schedule.* The ZAB shall establish a regular meeting schedule and shall meet frequently enough to expeditiously perform its duties in conformity with public notice and other applicable laws.

(2) *Conduct.* All ZAB meetings shall be open to the public and conducted in accordance with the provisions set forth in this chapter. The ZAB shall adopt rules and regulations governing its procedures and operations not inconsistent with those provisions and Florida law.

(3) *Record.* All actions of the ZAB shall be public record. All meetings shall be audio-recorded and written minutes shall be prepared of all proceedings. The director shall keep a properly indexed record of its actions, which shall be a public record.

(4) *Joint meetings.* The ZAB and the commission may, if they so desire, hold combined public hearings and meetings on any application or other matters. Such combined meetings shall not prevent the ZAB and/or the commission from holding additional hearings if deemed necessary.

(e) *Quorum and voting.*

(1) *Quorum.* A quorum for the ZAB shall consist of a majority of the total regular positions on the Board. A quorum is necessary for any official action.

(2) *Voting.* Voting shall be conducted as follows:

a. All members shall vote on each motion unless a member abstains because of a conflict of interest, or unless otherwise prohibited by law. Conflict of Interest forms shall be filed with the ZAB secretary when applicable.

b. All actions shall be taken by majority vote, a quorum being present.

c. A roll call vote shall be taken upon the request of any member.

(f) *Compensation, legal counsel, administrative staff.*

(1) *Compensation.* Members shall serve without compensation, but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the commission, or as otherwise provided by law.

- (2) *Legal counsel.* The commission shall appoint legal counsel to the ZAB.
- (3) *Administrative staff.* The commission shall provide clerical and administrative personnel, including a secretary, to the ZAB as may be reasonably required for the proper performance of its duties.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-204. Development review committee (DRC).

(a) *Establishment and purpose.* There is hereby established a development review committee (hereinafter referred to as DRC) whose principle function shall be to offer technical assistance on the requirements of the development code to interested parties, and to recommend to the commission on technical requirements related to proposed development in the county.

(b) *Duties and authority.* The DRC duties shall be as follows:

- (1) *Consultation.* To meet and consult with potential developers for the purpose of a conceptual review of a proposed development. This may include advising the developer on implementing his/her development plans within the constraints of this chapter.
- (2) *Development review/approval.* To sit as the development review committee and hold public meetings for the purpose of recommending to the commission on applications for amendments to this chapter, and for the purpose of recommending applications for use and development permits, all as specified in Table 13-104A.
- (3) *Variances.* To recommend approval/disapproval on applications for variances, as specified in section 13-237.
- (4) *Development policies.* To review development regulations, policies and problems, and make recommendations to the commission on amendments to this chapter.
- (5) *Other.* To perform any other related duties assigned by the Commission.

(c) *Membership.*

(1) *Members.* The DRC shall consist of members who each occupy or represent one of the following positions or entities:

- a. Clerk of circuit court.
- b. Sheriff of Sumter County.
- c. County planner.
- d. County engineer.

- e. Director of public works.
- f. Director of planning and development.
- g. County 911 coordinator.
- h. County environmental health officer.
- i. County building official.
- j. Development coordinator.
- k. Sumter County School Board.

(2) *Additional members.* The attorney representing the division shall attend the meetings to advise the committee on legal issues. The board may appoint additional members to the committee at any time. The committee may request the attendance of other members to represent areas of expertise and concern not represented by the regular members. This may include representatives from the Southwest Florida Water Management District, soil conservation service, local fire departments, utility companies or other appropriate individuals. These members serve at the pleasure of the board.

(3) *Organization.* The director of planning and development shall serve as chairman of the DRC and a vice-chairman shall be elected to serve in the absence of the chair. The county planner shall serve as secretary to the DRC.

(d) *Meetings.*

(1) *Schedule and notice.* The DRC shall establish a regular meeting schedule and shall meet frequently enough to expeditiously perform its duties in conformity with applicable laws. If the board established a regular and consistent meeting time and place, there shall be published annually a calendar of such meeting place and time. Any special meeting shall require a separate notice as to time, place and purpose of the meeting. All meetings shall be a public meeting and open to attendance to the general public.

(2) *Conduct.* The DRC may adopt rules and regulations governing its procedures and operations not inconsistent with this Code and Florida law.

(3) *Record.* All discussions of the DRC shall be a public record. All meetings shall be audio-recorded and written minutes shall be prepared of all proceedings. The director shall keep a properly indexed record of all DRC minutes.

(e) *Quorum.* A quorum for the Development Review Committee shall consist of five (5) members of said committee.

(f) *Administrative staff.* The commission shall provide clerical and administrative personnel, including a secretary, to the DRC as may be reasonably required for the proper performance of its duties.
(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-16, § 16, 6-13-00; Ord. No. 2001-4, § 1, 3-13-01)

Sec. 13-205. Development staff.

(a) *Director of Development Services.*

(1) *Establishment and purpose.* The commission shall employ a person as director of development services (or other relevant title, and herein referred to as director) who shall have primary responsibility for administering and enforcing this chapter and related codes and laws, except as otherwise specifically provided for herein, and to serve as administrator of the department.

(2) *Duties.* The director shall administer and enforce this chapter and other regulations and codes pertaining to the subject matter hereof. The duties and responsibilities of the director shall include, but are not necessarily limited to, the following:

- a. *Review.* Review all applications for amendments and permits for completeness.
- b. *Scheduling.* Schedule public hearings and meetings and cause public notice of same, as required by law.
- c. *Recommendations.* Recommend or act upon applications for amendments and permits as specified in Divisions 1 through 4.
- d. *Fees.* Collect all fees required and transmit same to the county clerk for disposition as required by law.
- e. *Special flood hazard areas.*
 1. Notify adjacent communities and the Southwest Florida Water Management District prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency, and assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 2. For all new or substantially improved structures within the flood hazard zone:
 - a) Require verification by owner, and record, the actual elevation (in relation to mean sea level) of the lowest floor (including basement).

b) Require verification by owner, and record, the actual elevation (in relation to mean sea level) to which any non-residential structure has been flood-proofed.

c) When flood-proofing is utilized for a particular structure, require certification from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria established in Article IV. (Development Standards).

d) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the director shall make the necessary interpretation. A person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

e) When base flood elevation data or floodway data have not been provided, the director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of this chapter.

f) Maintain all records pertaining to development in the areas of special flood hazard in its office, open for public inspection.

f. Other. Other actions pertaining to the administration and enforcement of this chapter and other related codes.

(b) *Building official.*

(1) *Establishment and purpose.* The commission shall employ a building official who shall have primary responsibility for administering and enforcing the building codes adopted by it, or mandated by federal or state law.

(2) *Duties.* The general duties and responsibilities of the Building official shall include, but are not necessarily limited to, those specified in the adopted building codes. (Ord. No. 96-23, § 9, 12-16-96)

Secs. 13-206--13-215. Reserved.

DIVISION 7.

PUBLIC NOTICE AND HEARINGS

Sec. 13-216. General.

As specified in Divisions 1, 2, 3, 4 and 9 of this article, all applications for

rezonings, use and development permits requiring review and action by the commission or zoning and adjustment board (herein referred to as ZAB), and variances, shall be considered in public hearings which shall be noticed and conducted as required herein. Action by the DRC shall be considered in public meetings but shall not constitute public hearings.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-12, § 11, 4-25-00)

Sec. 13-217. Public notice.

(a) *Amendments and use permits requiring review and action by the Commission or ZAB and variances.*

(1) *Publication.*

a. Contents of notice. When publication is required, advertisement shall be in the legal notice section of the paper, unless specified otherwise, and shall include, in addition to the general intent or purpose of the hearing, and the date, time and place of hearing, the following information on each application to be heard:

1. Application identification number.
2. Applicant's name.
3. The requested action.
4. The general location and legal description of the property involved.
5. The size of the property on which action is requested.

b. Rezonings. Public hearings shall be advertised as follows:

1. For rezonings of less than five (5) percent of the total land area in the county, public notice pursuant to F.S. Ch. 125.66 (5)(a) shall be given.
2. For rezonings of five (5) percent or more of the total land area in the county, public notice pursuant to F.S. Ch. 125.66 (5)(b) shall be given.
3. For Development Code amendments that affect the use of land, public notice pursuant to F.S. Ch. 125.66 (6) shall be given.

c. Use permits requiring review and action by the Commission, ZAB or variances. Public hearings shall be advertised in at least one (1) newspaper of paid general circulation within Sumter County.

1. The director shall comply with all statutory advertising requirements for any particular action. Every effort shall be made to advertise not less

than five (5) days prior to the hearing, however, as long as a legal advertisement is accomplished prior to a hearing, failure to advertise five (5) days prior to the hearing shall not be grounds for challenging any action taken on the application.

2. Conditional use permits which require an operating permit. Legal advertisements shall describe the geographic area involved, a descriptive name of the facility and a general, non-technical description of the activities planned to be conducted at the facility.

(2) *Posting.* All properties, for which applications require public hearings, before the ZAB or commission shall be posted by the applicant with plaques furnished by the director. Such plaques shall identify the application, the requested action, and the date, time and place of hearing. Plaques shall be sufficiently conspicuous in terms of size, location, and content to provide reasonably adequate notice to potentially interested persons of the matter that will appear on the authority's agenda. Such notices shall be posted at least seven (7) days prior to the first hearing at which the subject property will be considered, at locations specified by the director.

(3) *Notice to affected property owners.*

a. When required. For all properties for which applications require the described public hearings before the ZAB or commission, the department shall notify by first class mail the owners of all property lying within one-hundred and fifty (150) feet of the perimeter of the parent tract of the parcel described in the application, except that:

1. Conditional uses which do not require an operating permit: For applications for special use permits for community water system wellfields, the owners of all property lying within five-hundred (500) feet of the proposed wellfield area will be notified. Such notice will include the restrictions on the use of their property if the special use is granted.

2. Conditional uses which require an operating permit: For applications for conditional use permits, the owners of all property lying within five-hundred (500) feet of the perimeter of the parent tract of the parcel described in the application will be notified. In addition, each unit of local government within three (3) miles of the proposed conditional use and any school district with a facility within three (3) miles of the proposed conditional use shall be mailed the same notice.

3. Rezoning: Where a zoning map amendment of one (1) or more parcels is proposed by the commission, the director shall notify the owners of all properties whose zoning classification is to be changed by the proposed amendment.

b. Notice requirements. Notices shall be mailed at least ten (10) days prior to the first hearing date to owners of real property listed on the current county tax roll or other source of current ownership. Evidence of mailing to affected property owners shall be available at the hearing. Notices required herein shall:

1. State the application's identification number and applicant's name.
2. State the date, time and place of public hearing.
3. Reasonably identify the property proposed for change and summarize the nature and character of the proposed change.
4. State that the full extent of proposed changes may be obtained from the department and provide its telephone number and address.

(4) *Exception.* Staff, the director and all reviewing agencies shall make every reasonable effort to comply with the notice provisions set forth in the LDR. However, it is the commission's intent that failure to strictly comply with the notice provisions of subsections (2) and (3) of this section shall not render any final action by staff, any review board or authority or the commission invalid and shall not constitute grounds for challenge by any person of any final action. When an application is tabled by any reviewing board or authority or the commission to a time and date certain, no additional publication or notice as set forth in this section is required. Failure of any person to object during the hearing to any defect in any type of notice set forth herein shall constitute a waiver of any objection as to any lack of compliance.

(b) *Other notification.*

Upon receipt of any application, in addition to the public notice requirements of subsections (a) and (b), the director or authority may determine the possible involvement or interest of other government agencies or private organizations in the proposed development and may notify same.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-12, § 12, 4-25-00)

Sec. 13-218. Public hearings.

(a) *Applicant's appearance.*

(1) *Public notice adhered to.* Except as provided in subsection (a)(2) of this section, all applications shall be considered at the date and time specified in the public notice issued by the director. The applicant is required to appear at the scheduled hearings before the ZAB, in person or by duly authorized agent, to present the application, unless he/she has submitted a detailed written narrative presenting the application and, for good cause, stating the reason why he/she cannot be present or represented at the hearing.

(2) *Request for delay.* The applicant may request a delay or continuance of the scheduled public hearing provided such request is filed with the director not less than ten (10) days prior to the scheduled hearing. The request shall be granted only for good cause as determined by the director. The applicant shall be required to pay all additional costs incurred by the commission by reason of republication and mailing. If the continuance is

granted, all interested parties, including the applicant and noticed property owners shall be given due notice of the delay and of the new hearing date and time.

(3) *Failure to appear.*

a. Public hearing on applications for rezonings or use permits requiring review and action by the commission or ZAB and variances. The applicant's failure to appear in person, or by authorized agent, to present the application, or to have submitted a detailed written narrative presenting the application and stating the reason why he/she cannot be present, shall:

1. Cause the application to be placed on the agenda of the authority's next regularly scheduled meeting. Such action shall be publicly announced at the hearing and the applicant shall be notified in writing.

2. If the applicant fails to appear for the rescheduled hearing, the application shall automatically be denied by the approving authority, however, the applicant may refile at any time.

3. If, after reapplication, the applicant fails to appear at the scheduled public hearing(s), the application shall automatically be denied by the approving authority and the applicant may not refile for three (3) months.

b. Public hearing on applications for development permits requiring review and action by the commission. The applicant's failure to appear in person, or by duly authorized agent, to present the application at the public hearing, or to have submitted a detailed written narrative presenting the application and stating the reason why he/she cannot be present, shall:

1. Cause the application to be placed on the agenda of the authority's next regularly scheduled meeting. Such action shall be publicly announced at the hearing and the applicant shall be notified in writing.

2. If the applicant fails to appear at the second scheduled meeting, the authority shall table the application indefinitely.

3. Upon the applicant's request, the tabled application shall be placed on the authority's next agenda consistent with public notice requirements. The applicant shall be required to pay all additional costs incurred by the commission by reason of republication.

(b) *Conduct of hearing.* Public hearings shall be conducted in accordance with the following and other applicable laws:

(1) *Public participation.* All hearings shall be open to the public and when feasible, the agenda of the meeting at which the hearing is scheduled shall be made available to the

public at least three (3) days in advance. All hearings shall be conducted so as to promote full and free exchange of information necessary to the subject at hand. Irrelevant or immaterial information shall not be allowed nor shall duplication of testimony or argument by either side of the matter. All affected or interested persons shall be given an opportunity to present evidence and arguments and ask pertinent questions.

(2) *Evidence and arguments.*

a. All evidence heard. All pertinent testimony and evidence, favorable and unfavorable to the application, shall be heard, however, the authority may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.

b. Record of evidence. Whenever practicable, all documentary evidence presented at a hearing, as well as all other types of physical evidence, shall be made a part of the record of the proceedings and retained by the director.

c. Evidence introduced at scheduled hearing.

1. Public hearings on applications for amendments and use permits requiring review and action by the commission, ZAB and variances. No documents, plans, memorandum or other materials shall be considered at any hearing which has not been filed with the authority at least five (5) days prior to the hearing, if objected to by any member of the authority or any interested person. The presentation of any such material shall constitute good cause for a continuance if requested.

2. Public hearings on applications for development permits requiring review and action by the commission. Consideration of documents, plans, memorandum or other materials at any meeting which has not previously been filed with the authority at least five (5) days prior to the hearing is at the authority's discretion. Consideration of such materials must be by majority vote of the authority.

d. Evidence required by authority. In the event the authority requests additional information, or issues arise at the hearing which requires further research or the filing of additional evidence or information, the hearing shall be continued until at least five (5) days after such information or evidence is filed with the authority.

e. Findings. All findings and conclusions necessary to the issuance or denial of the requested action shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may quasi-judicial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

(3) *Application modification.* In response to questions or comments by persons

appearing at the hearing, or to suggestions or recommendations by authority members, the applicant may agree to modify the application at the hearing, including any plans and specifications submitted, provided:

a. No substantial change. Such modification does not constitute a change in the nature or extent of the requested action severe enough to require new public notice.

b. Substantial change. When such modification is so substantial or extensive that the authority cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans or other information before it, the authority may table the request until such plans or information is presented.

(4) *Continuance.* The authority may continue a hearing to a subsequent time to take additional information prior to the point a final decision is made. No further notice of a continued hearing need be made, provided the continuance date, time and place is announced when such continuance is made.

(c) *Decision of authority.* Actions of the authority concerning an application shall be included in the written minutes of the public hearing or meeting at which the application was considered and all such actions shall be deemed final for purposes of appeal on the date the action is taken.

(d) *Record of hearing.*

(1) *Materials.* The following record of all proceedings shall be made by the director and retained by him as public record for the period required by law.

a. Recording. An audio recording of all hearings required by this chapter, however a verbatim transcript need not be made by any authority.

b. Minutes. Accurate and concise written minutes of all hearings required by this chapter, including findings of fact, recommendations and determinations or decisions.

c. Evidence. All evidence submitted pursuant to the hearing.

(2) *Verbatim transcript.* Any person may request a verbatim transcript. The person so requesting shall furnish a court reporter to take such transcript and bear the cost thereof. A copy of any transcription made shall promptly be delivered to the director who shall file it with the other records of the application.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-12, § 13, 4-25-00; Ord. No. 2006-25, § 6, 8-15-06)

Secs. 13-219--13-225. Reserved.

DIVISION 8.

RESERVED

Secs. 13-226--13-235. Reserved.

DIVISION 9.

APPEALS AND VARIANCES

Sec. 13-236. Appeals.

(a) *From final actions of administrative officials.*

(1) *Authority.* In exercising its powers, the commission may hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by the DRC or administrative officials in the performance of their duties.

(2) *Appellant.* Appeals may be taken by any adversely affected person or official aggrieved by such order, requirement, decision or determination.

(3) *Procedure.* Appeals shall be processed subject to the following:

a. *Written order.* Any adversely affected person aggrieved by any order, requirement, decision or determination of an administrative official in the performance of his/her duties shall, upon request to that official, be furnished such order, requirement, decision or determination in writing over the official's signature. Such document must be furnished the aggrieved person within ten (10) days of such request.

b. *Notice of appeal.* An appeal is taken by filing with the commission a notice of appeal and a copy of the official's written order, requirement, decision or determination. Such appeal shall be in writing, on a form provided by the commission, and shall include such information as the date of appeal, parcel identification number of the property involved, grounds upon which the appeal is made and other applicable information. It shall include all information necessary for a complete understanding of the situation by the commission. Appeals must be filed within thirty (30) days of receipt of the official's written order, requirement, decision or determination. A notice of appeal shall be considered filed with the commission when delivered to the commission's office and date stamped. The administrative official from whom the appeal is taken shall, upon notification by the commission's office of the filing, forthwith transmit to the commission all the documents, plan, papers, or other materials constituting the record upon which the action appealed was taken.

c. *Work stayed.* An appeal to the commission stays all work on the premises and all proceedings in furtherance of the action appealed, unless the official from whom the appeal was taken certifies to the commission that (because of facts stated in the certification) a stay would, in his/her opinion, cause imminent peril to life or property. In

that case, proceedings or work shall not be stayed except by a restraining order of the commission or by a court of record on application and notice to the official from whom the appeal is taken and on due cause shown.

d. Expeditious hearing. Appeals shall be heard as expeditiously as possible, consistent with the need to follow regularly established agenda procedures and to obtain the necessary information to make sound decisions. Whenever an appeal is filed, the county administrator shall place the matter on the next open commission agenda and forthwith transmit to it's members copies of all documents constituting the record relating to the action appealed from. The county administrator shall also provide due notice to all known parties in interest.

e. Burden of evidence. When an appeal is taken to the commission in accordance with this section, the official from whom the appeal is taken shall have the initial burden of presenting to the commission sufficient evidence and argument to justify the order, requirement, decision or determination appealed. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion. Any affected party may appear in person, or by agent or attorney, and be heard.

f. Commission action. The commission may, in conformity with the provisions of this chapter, affirm or reverse, wholly or partly, or modify, any order, requirement, decision or determination made by an administrative official in the performance of his/her duties, and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the official from whom the appeal is taken.

1. A motion to affirm, reverse or modify the order, requirement, decision or determination appealed shall include, insofar as practical, a statement of the specific reasons or findings of facts that support the motion. The concurring vote of a majority of all members of the commission shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the appellant on any matter upon which the commission is required to pass under this section.

2. If a motion to reverse or modify is not made, or fails to receive a majority vote, then a motion to uphold the order, requirement, decision or determination appealed from shall be in order.

(b) *From final action of zoning and adjustment board.* Any adversely affected person, or the commission, aggrieved by any final decision of the zoning and adjustment board, may appeal any such final action to the circuit court for Sumter County, Florida. The appeal shall be by petition for writ of certiorari and must be filed within thirty (30) days after the date of the decision.

(c) *From action of commission.* An appeal from a decision of the commission

shall be by petition for writ of certiorari to the circuit court of the fifth judicial circuit within thirty (30) days from the date of final action by the commission.

(d) *Judicial review.* Notwithstanding subsections (a), (b) and (c), any adversely affected person aggrieved by any decision of any officer, department, board, commission or bureau of the board of county commissioners, including the board of county commissioners, may appeal any such final action to the Circuit Court for Sumter County, Florida. The appeal shall be by petition for writ of certiorari and must be filed within thirty (30) days after the date of the decision.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2000-12, § 14, 4-25-00; Ord. No. 2000-16, § 14, 6-13-00; Ord. No. 2006-7, § 2, 1-31-06)

Sec. 13-237. Variances.

(a) *General.* Variances from the requirements of this chapter may be granted by the approving authority, except that where the director is the approving authority, variances must be approved by the zoning and adjustment board, and where the county engineer or building official is the approving authority, variances must be approved by the development review board. Variances may only be granted if it is concluded that strict enforcement would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this chapter will be observed, public safety and welfare secured and substantial justice done.

(b) *Application submission.* Requests for variances shall be specified in the materials presented in applications for use and development permits. In addition to the application requirements specified in Appendix A, the applicant shall fully explain why compliance with the requirements of this chapter would result in practical difficulties or unnecessary hardships for him/her, and how by granting the variance, the spirit of this chapter will be observed, public safety and welfare secured and substantial justice done.

(c) *Application review and action.*

(1) *Review criteria.*

a. *General.* A variance may be approved if it is concluded by the approving authority that, due to conditions beyond the control of the applicant, strict or literal enforcement of this chapter would result in practical difficulties or unnecessary and undue hardships for the applicant. This conclusion may only be reached if it is found that all of the following statements are true:

1. If the applicant complies strictly with the provisions of this chapter, he can make no reasonable use of his/her property.

2. The hardship is unique, or nearly so, rather than one shared by many surrounding properties. This shall be determined if special conditions and circumstances exist which are peculiar to the land, structure or building involved and

which are not applicable to other lands, structure or buildings in the same land use zone, and if the literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same land use zone. The special conditions and circumstances of the hardship for which the applicant seeks relief must be suffered by the applicant and not by neighbors or the general public.

3. The special conditions and circumstances of the hardship relates to the applicants land, building or other structure rather than personal circumstances. The approving authority must determine that the land contained within the area to be developed is of such size, shape, topography, location or condition, or subject to such title limitations, or subject to such other limiting circumstances as to render it impractical or impossible for the applicant to conform to the requirements of this chapter without placing an undue hardship on him.

4. The special conditions and circumstances creating the hardship are not the result of the applicants own actions.

5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

6. The variance granted will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

7. The variance requested will neither result in the extension of a non-conforming situation in violation of section 13-817, nor authorize the initiation of a non-conforming use of land.

8. The variance granted will not permit a use not permissible in Table 13-362A for the applicable land use zone, or any use expressly or by implication prohibited by this chapter.

9. No nonconforming use of neighboring lands, structures, or buildings in the same land use zone, and no permitted use of lands, structures and buildings in other land use zones have been considered grounds for the authorization of the variance.

b. Flood zones and floodways.

1. In addition to the criteria of subsection a., the following concerns are to be considered for approval of a variance from the flood zone and floodway requirements of this chapter, however. no variances shall be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. In deciding upon such application, the approving authority shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the following:

- a) The danger that materials may be swept onto other lands to the injury of others.
- b) The danger to life and property due to flooding or erosion damage.
- c) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner.
- d) The importance of the services provided by the proposed facility to the community.
- e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility.
- f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- g) The compatibility of the proposed use with existing and anticipated development.
- h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- k) The costs of providing governmental services during and after flood conditions including emergency or rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

2. Variances from the flood zone and floodway requirements of this Code shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. If a variance is granted:

- a) The applicant to whom the variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure will be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

b) The building official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

c. Setbacks. In addition to the criteria of subsection a., the following concerns are to be considered for approval of a variance from the setback requirements of this chapter.

1. When the use proposed for a nonconforming parcel is one that is conforming in all other respects but the applicable setback requirements of sections 13-611 and 13-612, and these cannot reasonably be complied with, then the authority may allow deviations from the applicable setback requirements if it finds the following:

a) The property cannot reasonably be developed for the use proposed without such deviations, and

b) These deviations are necessitated by the size or shape of the nonconforming parcel, and

c) The property can be developed as proposed without any significantly adverse impact on surrounding properties or roadways, or the public health, safety or welfare.

2. For purposes of subsection 1., compliance with applicable setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming parcel cannot practicably be constructed and located on the parcel in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

d. Historic preservation. Variances from the historic preservation requirements of this chapter may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation and upon a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(2) *Action on application.*

a. Actions on applications shall be taken as specified in subsection 13-104(d).

b. Actions for approval.

1. Before granting a variance, the approving authority must make an affirmative finding on each of the applicable criteria set forth in subsection (1). Insofar as practical, an action to make an affirmative finding shall include a statement of the specific reasons or findings of fact that support it. Variances shall only be issued upon:

- a) A showing of good and sufficient cause.
- b) A determination that failure to grant the variance would result in exceptional hardship, and;
- c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws.

2. In granting variances, the approving authority may, upon consideration of the factors listed above, and the purposes of this chapter, impose such reasonable and appropriate conditions and safeguards, in excess of what is specified in this chapter, as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties and further the purposes of this chapter, i.e., a variance may be issued for an indefinite duration or for a specified duration only. All conditions attached to a variance are enforceable in the same manner as any other applicable requirements of this chapter.

c. Actions for denial. An action to deny a variance may be made on the basis that any one or more of the criteria set forth in subsection (1) are not satisfied or that the application is insufficient. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it.

d. Actions in writing. All actions of the authority shall be recorded in the official minutes for the meeting or hearing involved, which shall include the nature of the variance and any conditions attached to the action. The director shall develop a form suitable for recording in the public records of Sumter County setting forth the name of the owner, the legal description of the property and the nature of the variance and all conditions of the variance.

1. For all variance applications, actions of the authority shall be placed in the written minutes of the public hearing, along with the reason(s) for the action, and reported to the applicant, in writing, by the director, within five days of such action.

2. Actions of the authority concerning a variance shall be included in the written minutes of the public hearing or meeting at which the application was considered and all such actions shall be deemed final for purposes of appeal on the date the action is taken.

3. Approved variances shall be recorded in the public records by the director.

(d) *Revocation of variance.* Violation of the conditions of approval, as specified in the final order, shall be deemed a violation of this chapter. At a public hearing, upon proof of deliberate disregard and violation of such conditions, the approving authority may revoke the variance.

(e) *Prohibited variances.* No lot created after the effective date of this chapter that is less than the required area or width shall be entitled to a variance from any building area or setback requirement.

(Ord. No. 96-23, § 9, 12-16-96; Ord. No. 2006-25, §§ 7, 8, 8-15-06)

Sec. 13-238--13-245. Reserved.

DIVISION 10.

CONCURRENCY MANAGEMENT

Sec. 13-246. General.

(a) *Requirement and purpose.* Florida's 1985 Growth Management Act mandates that all local government comprehensive plans require that public facilities and services needed to support development shall be available concurrent with the impacts of such development. Pursuant to this mandate, policies throughout the Sumter County Comprehensive Plan require that the issuance of development permits be contingent upon the availability of public facilities and services at the levels of service adopted in the Plan. To successfully implement this requirement, the following reviews and monitoring standards and procedures are established as Sumter County's concurrency management system.

(b) *Public facilities and services for which concurrency is required.* A concurrency test will be made of the following public facilities and services, for which level of service standards have been established in the comprehensive plan and also specified in Article IV. General Development Standards.

- (1) Roads;
- (2) Potable water;
- (3) Sanitary sewer;
- (4) Solid waste;
- (5) Drainage;

(6) Parks and recreation
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-247. Concurrency standards.

To be determined concurrent, a project shall not lower the existing levels of service of public facilities and services below the adopted levels of service of the comprehensive plan. A project will be deemed concurrent if one of the following standards is met:

(1) *For potable water, sewer, solid waste and drainage.*

- a. The necessary facilities and services are in place at the time a development permit is issued; or
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or
- c. The necessary facilities are under construction at the time a permit is issued; or
- d. The necessary facilities and services are guaranteed, in an enforceable development agreement, to be in place when the impacts of the development occur.

(2) *For parks and recreation.*

- a. Any one of the standards in subsection (1) above; or
- b. At the time the development permit is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of the actual construction of the required facilities or the provision of services within one (1) year of the issuance of the development permit; or
- c. The necessary facilities and services are guaranteed in an enforceable development agreement which requires the commencement of the actual construction of the facilities or the provision of services within one year of the issuance of the applicable development permit.

(3) *For roads.*

- a. Any of the standards in (1) or (2) above; or
- b. The necessary facilities and services are included in the County's adopted capital improvements element and five-year schedule of capital improvements, as provided below:

1. The capital improvements element and five year schedule of capital improvements must be financially feasible.
2. The five year schedule of capital improvements must include improvements necessary to correct any identified facility deficiencies and maintain adopted levels of service for existing and permitted development.
3. The five-year schedule of capital improvements must include the estimated date of commencement of actual construction and the estimated date of project completion, and identifies whether funding is for design, engineering, consultant fees, or construction and indicates, by funded year, how the dollars will be allocated.
4. The five-year schedule of capital improvements must demonstrate that the actual construction of the road and the provision of services are scheduled to commence in or before the third year of the five-year schedule of capital improvements.
5. A plan amendment will be required in order to eliminate, defer or delay construction of any road or service which is needed to maintain the adopted level of service standard and which is listed in the five-year schedule of capital improvements; or
6. For roads in the state system, the five-year schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable adopted Florida Department of Transportation five-year work program.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-248. Concurrency determination.

(a) *Level of service.* Sumter County will provide level of service information for all required public facilities and services as set forth in the Sumter County Comprehensive Plan 1991-2001.

(b) *General concurrency test.*

(1) *Capacity accounting.* In general, the concurrency test for public facilities and services will compare the public facility capacity needs of a proposed development to the available capacity of public facilities. The following "capacity accounting" sequence shall be used:

a. Step A: Determine total capacity = current capacity plus programmed capacity (at time of impact of development).

b. Step B: Determine capacity available for new development = total capacity minus current demand and minus capacity reserved, but not yet used (development permits, vested development).

- c. Step C: Determine surplus (concurrent capacity) or deficit (not concurrent capacity) = capacity available for new development minus capacity required for specific applicant.

For traffic circulation, any proposed project generating more than five hundred (500) vehicle trips a day will be required to provide a trip distribution model.

(2) *Determination.*

a. If the concurrency test information indicates that the proposed project would not result in a level of service failure, the concurrency determination would be that adequate facility capacity at acceptable levels of service is available at the date of determination.

b. If the concurrency test indicates that the proposed project would result in a level of service failure, the concurrency determination would be that adequate facility capacity at acceptable levels of service is not available at the date of determination.

(c) *Alternative concurrency test for roadways.* If the preliminary level of service information indicates a level of service failure the developer has the alternative of preparing a more detailed highway capacity analysis as outlined in the Highway Capacity Manual, Special Report 209 (1985) or a speed and delay study following the procedures outlined by the Florida Dept. of Transportation, Traffic Engineering Office, in its Manual for Uniform Traffic Studies, subject to the following:

(1) *Developer analysis.* If the developer chooses to do a more detailed analysis, he/she shall use a methodology acceptable to the director, and shall submit the completed alternative analysis to the director for review for accuracy and appropriate application of the methodology. If the alternative methodology, after review and acceptance by the director, indicates an acceptable level of service where the comprehensive plan indicates a level of service failure, the alternative methodology will be used.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-249. Concurrency management procedures.

In response to the need to ensure that development permits will only be issued when public facilities and services at adopted level of service are available concurrent with the impacts of such development, the director, in cooperation with other county officials, as appropriate, shall establish systems and procedures for monitoring capacity and levels of service for all required public facilities and services, and for review of all proposed development for concurrency. Such measures shall include:

(1) *Monitoring.*

a. Minor and medium development. Individual minor and medium development projects shall not be subject to a concurrency test, however, all required

public facilities and services shall be annually monitored for current capacity, use and level of service. Minor and medium developments will be permitted when existing levels of service allow it.

b. Major development. Upon receipt of application for preliminary plan approval, all major development will be reviewed for concurrency on an individual basis.

(2) *Concurrency determinations and certificates.*

a. At any time, by request to the director, a developer may determine if there is sufficient capacity to accommodate his/her project. The director shall make an informal determination of where there appears to be sufficient capacity in public facilities and services to satisfy the demands of the proposed project, and where there appears to be insufficient capacity. This is a non-binding determination to be used for planning purposes only.

b. At time of application for land use permit, if requested, a Concurrency Determination will be furnished the applicant. This is a non-binding determination that adequate facility capacity and level of service is or is not available at date of application approval.

c. At time of application for preliminary plan approval, the director shall make a binding determination of what public facilities and services are currently available for the project.

d. At time of application for engineering plan approval, the director shall make a concurrent or non-current determination for all public facilities and services.

e. The director shall make a concurrency determination for any proposed amendment to the Future Land Use Element.

f. All determinations shall be done in writing, in a timely manner, with findings of deficiencies explained in detail.

(3) *Certificate of Concurrency.* If a project with an approved engineering plan is determined concurrent, the director shall issue a certificate of concurrency together with the site permit, subject to the following:

a. The certificate of concurrency will remain in effect for the same period of time as the site permit for which it was issued, and subsequent project approvals.

b. One (1) certificate of concurrency will be issued for site permits which include two (2) or more structures. Therefore, individual building permits in a subdivision will not require separate certificates of concurrency.

c. Certificates of concurrency only represent the availability of facilities and

services and do not represent or give claim to overall development approval.

d. A certificate of concurrency reserves to the project, for the life of the certificate, the public facilities and services capacities necessary to ensure concurrency at time of the projects impact.

e. If an application for a site permit is not concurrent, the applicant will be notified in writing, in a timely manner, with findings of deficiencies explained in detail, why a certificate of concurrency and a permit cannot be issued. The burden of showing compliance with the adopted level of service and meeting the concurrency test will be upon the applicant. The director may provide limited guidance to the applicant in the preparation of the necessary documentation and information.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-250. Constraints and adjustments to facility capacity.

(a) *Capacity allocation.* No project shall be allowed more than fifty (50) percent of the existing excess capacity of a facility or service.

(b) *Capacity reservation.* Capacities for vested developments may be reserved at less than one-hundred (100) percent, but not less than seventy-five (75) percent.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-251. Exceptions to concurrency requirement.

Those developments having statutory vested rights on February 3, 1992 shall be exempt from concurrency requirements for issuance of development permits. However, facility needs of these developments shall be included in the reserved capacity of Step B of the general concurrency test.
(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-252--13-260. Reserved.

DIVISION 11.

RESERVED

Sec. 13-261--13-275. Reserved.

DIVISION 12.

CODE ENFORCEMENT

Sec. 13-276. General.

(a) *Purpose and intent.* It is the purpose of the commission to enforce the

provisions of this chapter in an equitable and expeditious manner as specified in this division.

(b) *Code inspection.*

(1) *Right of entry.*

a. The personnel of the department, who in the performance of their duties and functions are required to inspect property and structures for compliance with the provisions of this chapter, may enter upon any land and make examinations and surveys that do not cause willful damage or injury to private property, without any action therefore for trespass.

b. Unless the property owner requests an inspection, or an immediate danger to public health, safety or welfare is believed to exist, the inspector shall make all reasonable efforts to provide the property owner with reasonable notice prior to the inspection. No inspector shall enter a dwelling unit without the consent of the resident or in the company of a law enforcement officer and court permission.

c. In addition to the above, receipt of a land use or development permit issued pursuant to this chapter, constitutes consent by the recipient for authorized personnel to inspect the site upon reasonable notice to determine compliance with this chapter and other permit conditions. In particular, receipt of an operating permit constitutes consent by the recipient for authorized personnel to inspect all records and other appropriate business practices necessary to ensure compliance with the conditions of this chapter and the operating permit.

(2) *Code inspector.* There is hereby established within the department a persons(s) whose primary duties shall be to monitor operating permits, investigate code violations, certify code violations, direct code compliance and present code violations to authorities as required.

(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-277. Code enforcement procedure.

Enforcement of land use and development codes of Sumter County shall be according to the procedures set forth below.

(a) *Code inspector.*

(1) *Land use or building code violations.*

a. The code inspector (CI) will make the initial attempts to obtain code compliance. Upon determination that a probable violation exists, the CI shall assign an application number and initiate enforcement proceedings by notifying the alleged violator of the specific nature of the violation, the corrective action to be taken, and

providing a reasonable period of time for the violation to be corrected. The time given shall be relative to the magnitude and seriousness of the violation and effect on other persons.

b. If a repeat violation is found, the CI shall notify the violator but is not required to give a reasonable period of time to correct the violation before submitting the violation to the county attorney for action.

c. If the CI has reason to believe a violation presents a serious threat to the public health, safety, and welfare or is irreparable and irreversible in nature, he shall make a reasonable effort to notify the alleged violator, and having done so, may then submit the violation to the county attorney or commission for action, without written notice requirements.

(2) *Unlicensed contractor violations.* When unlicensed contracting activity is found, the CI will make the initial attempts to obtain compliance and a cease and desist agreement (agreement) from the alleged violator.

(b) *County attorney.*

(1) *Land use or building code violations.* When the CI does not achieve desired results with notices of violation, he will submit the alleged violation to the county attorney for action. Upon review of the record and code requirements, the county attorney shall then furnish the alleged violator with a final notice of violation. The notice shall contain the specific nature of the violation, corrective action to be taken, and provide a reasonable period of time for the violation to be corrected. The time given shall be relative to the magnitude and seriousness of the violation and effect on other persons. Upon determination that satisfactory progress has not been made within the time given, the county attorney shall furnish a notice of hearing to the alleged violator.

(2) *Unlicensed contractor violations.* When the CI does not achieve desired results in obtaining compliance and an executed agreement, he will submit the alleged violation to the county attorney for action. Upon review of the record and code requirements, the county attorney shall then proceed as follows:

a. If a first time violation has occurred, the alleged violator shall be given another opportunity to comply with licensing requirements and execute an agreement. If the violation ceases and the properly executed agreement is returned within thirty (30) days of mailing, no further action is necessary.

b. If a repeat violation has occurred, or if the agreement is not returned within thirty (30) days of mailing, the county attorney shall furnish a notice of hearing to the alleged violator.

(3) *Notice of hearing.* The county attorney shall furnish a notice of hearing to the alleged violator by certified mail, return receipt requested, or by personal service, at

least ten (10) days before such hearing. Such notice shall include the date, time and place of the hearing and the statement of violation to be presented at the hearing. The hearing shall be conducted by the commission and may be held with or without acceptance of the notice by the alleged violator.

(c) *Commission.*

(1) *Application data.* Agendas, including application data, shall be provided the commission at least seven (7) days prior to a hearing. At the option of the commission, violations which have been corrected prior to the scheduled hearing may still be heard, and the notice to the alleged violator shall so state.

(2) *Conduct of hearing.*

a. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern all proceedings. Minutes shall be kept of all hearings, and all proceedings shall be open to the public.

b. Protocol for hearings shall be determined by the commission.

c. Decisions will be made as expediently as possible. Decisions shall contain findings of fact and conclusions of law based on the evidence of record, and shall include an order affording the proper relief consistent with the powers of the commission. The decision shall be announced as an oral order at the hearing and shall be reduced to writing within ten (10) days and mailed to all parties.

d. If the commission finds for a violation, its written order shall be issued as an order to comply. Such order shall establish a date certain for compliance.

(3) *Inspection.*

a. Immediately after a date certain for compliance has passed, the CI shall make an inspection to determine compliance or noncompliance with the order to comply. The inspector shall file an affidavit of compliance or affidavit of noncompliance with the Clerk, and a copy shall be sent to the violator by certified mail, return receipt requested.

b. Upon issuance of an affidavit of noncompliance, the director shall not issue any subsequent development orders for the property, except as needed to correct the violation, until the violation has been corrected. He shall also inform the violator that any work under an existing development order shall immediately cease and not be resumed until the violation is corrected.

(4) *Compliance/non-compliance.*

a. Compliance. If the CI files an affidavit of compliance, the clerk

shall close the file and so report to the commission.

b. Noncompliance. If the CI files an affidavit of noncompliance, the following shall apply:

1. The application shall be agendaed for the next regular meeting of the commission.

2. At that meeting the noncompliance shall be presented by the county attorney or other administrative staff and the commission shall take appropriate action.

(Ord. No. 96-23, § 9, 12-16-96)

Sec. 13-278--13-300. Reserved.